

LOCAL LAWS
OF THE
STATE OF INDIANA,

PASSED AT THE
THIRTY-SECOND SESSION

OF THE
GENERAL ASSEMBLY.

By Authority.

INDIANAPOLIS:
JOHN D. DEFREES, STATE PRINTER.
1848.

LOCAL LAWS.

CHAPTER I.

An Act to incorporate the town of Winchester, in Randolph County.

[APPROVED, JANUARY 10, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That* Josiah Mongar, James Brown, Jacob Ramel, James W. Steel, and Joseph Kelly, be and they are hereby appointed trustees of the corporation of the town of Winchester, Randolph county, Indiana, to serve as such until the first Monday in March, 1849, and until their successors are elected and qualified as hereinafter provided.

SEC. 2. That the said trustees, at their first meeting after the passage of this act, shall elect a president from their own body, whose duty it shall be to preside at all meetings of the board, and preserve order, put all questions, and upon an equal division of the board, give the casting vote, and at the close of each meeting, shall sign the minutes of the same; and the said trustees shall, also, at said meeting, or as soon after as may be convenient, appoint all officers necessary to carry into effect the provisions of this act, and make to them such compensation as to said trustees shall appear reasonable and right.

SEC. 3. The said president and trustees of said town and their successors in office, shall be and they are hereby declared to be a body politic and corporate with perpetual succession, by the name and style of the "president and trustees of the town of Winchester," and by their corporate name shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court of competent jurisdiction, and shall have power to make, use, and have a seal, and the same to break, alter, and amend at pleasure; to ordain, order establish, and put into execution and effect such by-laws, rules, and ordinances necessary and proper for the benefit and

convenience of the citizens of said incorporated town, and shall also have power to adopt and put in force such laws, ordinances, and regulations as they shall deem necessary for the police, good government, and order of said town hereby incorporated; subject, however, to the restrictions, limitations, and provisions herein after provided, and not inconsistent with the constitution and laws of this state, or the constitution and laws of the United States.

SEC. 4. That the said trustees, and their successors in office, shall, before entering upon the duties of their office, take an oath or affirmation faithfully and impartially to discharge the duties of the same; and it shall be the duty of said president and trustees, or a majority of them, to lay off said town into five wards, and cause a particular description of each to be entered on the books of the corporation, and on the 1st Monday of March, 1849, and annually thereafter, there shall be an election held in some convenient place in said town, to be designated by the said president and trustees, to elect by ballot one trustee from each ward for said corporation; at which election each white male inhabitant of said town, who shall have the qualifications of a voter for state and county officers, and shall have resided within the bounds of the corporation six months next preceding the day of election, shall be entitled to a vote at the same; ten days' [previous] notice of which election shall be given by the president and trustees aforesaid, by publishing the same in some newspaper in said town, or by putting up written notices thereof, one in the most public place in each ward, designating the time and place said election is to be holden; but no person shall be eligible to the office of trustee unless he shall be a legal voter, as above set forth, and a resident householder or freeholder within the ward for which he is elected.

SEC. 5. The president and trustees shall have power to pass such laws, ordinances, and decrees as may be necessary to guard against damages by fire; to organize fire companies and govern the same; to regulate the duty and conduct of the citizens of the town in relation thereto; to regulate the markets; to prevent the erection of public nuisances, and cause the same to be removed; to declare what shall be considered a public nuisance; to grant license for any and all purposes, and subject to the same provisions, restrictions, and limitations as may be required by the boards doing county business under the laws of this state that are now in force or that may hereafter be put in force; to prevent any riots or disturbances, or disorderly assemblies in said town; to prevent the encumbering of streets, side-walks, and alleys with carriages, wagons, carts, sleighs, sleds, boxes, lumber, fire-wood, building materials, or any other substance or material whatever; to regulate the grading and improving of the streets, side-walks, and alleys in said town; to adopt and put in force such portions of the criminal laws of this state as may be necessary for the good government and order of said incorporation; and generally to enforce by proper penalties the observance of all laws and ordinances relating to the police and government of said

incorporated town; and whenever it may become necessary to commit any person or persons to prison for a breach of any of the penal laws of the state so adopted, it is hereby made the duty of the sheriff of Randolph county to receive said person or persons in such manner as if they were committed by a justice of the peace or other officer now authorized to commit to prison.

SEC. 6. The president of the corporation shall act as inspector of the election; he shall call to his assistance two other qualified electors of said town, who with himself shall be judges; he shall appoint a clerk, and after having taken an oath or affirmation, faithfully to discharge their duties as judges and clerk of said election, shall proceed to receive votes for trustees between the hours of 10 o'clock A. M. and 4 o'clock P. M., on said day; *Provided, however,* That if the president shall not be present by 11 o'clock A. M., or being present shall refuse or neglect as aforesaid, then the voters present shall appoint some qualified elector to be the inspector of said election: *Provided, also,* That if the president and trustees shall fail to give the notice required of them as aforesaid, this act shall be considered as sufficient notice: *And provided, further,* That if the electors should fail to meet and elect trustees at any annual election, or if all or any of the trustees elect should refuse or neglect to qualify as such trustees, the corporation shall not thereby be dissolved, but the trustee or trustees then in office, whose place the election was intended to fill, shall continue in office until others shall be elected at an annual election and qualified.

SEC. 7. It shall be the duty of the judges of such election to certify, under their hands, the names of the five persons who received the highest number of votes for trustee of their respective wards, which certificate shall be filed and entered upon the records of the proceedings of the board of trustees, by the clerk of the corporation, whose duty it shall be to deliver a copy thereof to each of the five persons elected, which certificate shall be sufficient authority for such person to act as such trustee.

SEC. 8. If at any election for trustees there should be a tie, the judges shall decide which of the candidates, having the highest and the same number of votes, for the same ward, shall be entitled to the certificate of election; and all contested elections shall be decided by the trustees.

SEC. 9. The said trustees shall have full power and authority to assess and cause to be collected a tax, annually, on all real property within said town, not to exceed three-fourths of one per centum on its valuation, including improvements on such property; a poll tax on each qualified voter, not exceeding fifty cents each, and a reasonable tax on all or any specific article of personal property, as to them shall be deemed fit subjects of taxation; on the owners or keepers of dogs in the town, a tax not exceeding one dollar for each he dog, and not exceeding three dollars for each she dog, but may discriminate between large dogs and small ones.

SEC. 10. The president and trustees shall, in the month of April

of each year, appoint an assessor for said corporation, who shall take an oath or affirmation for the faithful discharge of his duties as assessor, after which he shall proceed forthwith to make a fair list, in alphabetical order, of all persons subject to tax, also of all lots, parts of lots, fractional lots, particularly noting the number and description of each, the owner's name, if known, and whether resident or non-resident, annexing thereto, in a column for that purpose, the fair cash value of said lots, or parts of lots, either including or excluding improvements thereon as said president and trustees may direct, together with the aggregate value of such other property as the president and trustees may direct him to assess. All personal property ordered to be assessed shall be valued at its true cash value; and said assessor may require any person to give in his, her or their property so to be assessed, under oath or affirmation, which may be administered by said assessor; and such assessor shall, on or before the third Monday in May next succeeding, make return to the clerk of the corporation of such list and appraisement.

SEC. 11. That if any person, resident of such incorporated town, shall refuse to give a list of his or her property when called upon by the assessor, or shall fraudulently omit to give in his or her property which may be required to be assessed and listed, the assessor shall take a list and assessment of such person's property thus refused or omitted to be given in, from the best information he can obtain.

SEC. 12. That if any person, resident of said incorporated town, shall refuse to give a list of his or her property; or, if any person resident as aforesaid, shall fraudulently omit to give in any part of his or her property when called upon by the assessor, such person or persons thus offending shall, on conviction thereof before any justice of the peace within said corporation, be fined not exceeding ten dollars, to be collected as other fines, for the use of the corporation, together with costs.

SEC. 13. The president and trustees shall, in the month of June of each year, appoint a collector for said corporation, who shall take an oath of office, and give bond and security to be approved by the president and trustees, conditioned that he will faithfully and honestly discharge the duties of his office, and that he will pay over all monies that may come into his hands, as collector, to the treasurer of said corporation, or to such person as may be authorized to receive the same.

SEC. 14. The president and trustees shall cause the clerk to make out, from the returns of the assessor, a fair list of all persons taxable with personal property, and with real property, as set forth in the assessor's list, adding the amount of tax chargeable to each person, setting forth the owner's name, if known, and carrying out, in a separate column, the amount of tax on real estate to each, and in a separate column the amount of tax on personal property to each, and deliver the same to the collector on or before the first

Monday of July, annually, and certify the aggregate amount thereof to the treasurer; such list so put into the hands of the collector, certified by the president and attested by the clerk, to be a true list of person's property taxed, and amount of tax charged, shall be sufficient authority for the collector to proceed to collect the same.

SEC. 15. It shall be the duty of the collector, whenever any tax shall be paid, to give the person paying the same a receipt therefor, specifying therein the town lot, or other property on which such tax was assessed, according to its description on his tax list, or in some other sufficient manner.

SEC. 16. That if any person shall fail to pay the taxes assessed against him, her, or them, on or before the first Monday in October, such person or persons may pay the same at any time before the collector shall have distrained any property for the payment of such taxes; but the collector may, at any time after the first Monday in October, and it is hereby made his duty, to distrain sufficient goods and chattels belonging to the person or persons charged with such taxes, if found within said incorporated town, to pay the taxes due from such person or persons, and the costs that may accrue; and shall immediately proceed to advertise the same by posting up in three of the most public places in said town, written notices, stating the time when, and the place where, such property will be sold; and if the taxes for which such property shall have been distrained, and the costs which have accrued thereon, shall not be paid on or before the time appointed for such sale, which shall not be less than ten days after the taking of such property, said collector shall proceed to sell such property at public vendue to the highest bidder, or so much thereof as will be sufficient to pay said taxes and the costs of such distress and sale.

SEC. 17. That the collector shall be allowed the same fees for making distress and sale of goods and chattels for the payment of taxes as may be allowed by the laws of the state of Indiana to constables for making levy and sale of property on execution, excepting that there shall be no mileage charged, also, there shall not be charged over twenty-five cents for advertising the sale.

SEC. 18. In all cases where the tax due and owing cannot be made of the goods and chattels of such delinquent, it shall be the duty of the collector to make sale of the lots or fractions of lots belonging to such person, or so much thereof as will pay the tax and costs thereon, by giving at least twenty days' notice in some newspaper printed in said town, or by posting up three written notices in the most public places in said town, in which notice or notices he shall describe the lot or lots to be sold by their proper number or some other certain description, the owner's name if known, with the amount of tax and costs due from such person or persons, on such lot or lots, and that he will proceed to sell the same at the court house door in said town by public outcry on the 1st Monday in November, between the hours of ten o'clock A.M. and 4 o'clock P.M., or so much thereof as will pay the tax and costs due thereon; and

file a true copy of said advertisement with the clerk of said corporation to be filed by him among the records of said corporation.

SEC. 19. The collector shall, on the day of sale, by proclamation, proceed to sell the lot or lots to the person who will pay the tax and costs due for the smallest portion of the lot or lots so offered for sale, and shall give to the purchaser or purchasers a certificate of such purchase, setting forth the amount paid, including tax and costs, and that the said purchaser will be entitled to receive a deed for the same at the end of two years, unless the owner or some person for him, her or them, shall redeem the same on or before that time, by paying to said purchaser, his, her, or their heirs or assigns, the amount of the purchase money with one hundred per centum thereon, and also other taxes, whether corporation, state, or county, that the said purchaser, his, her, or their heirs or assigns may have paid thereon, with twenty-five per centum thereon or deposite the amount with the treasurer of the corporation for the benefit of the purchaser, his, her, or their heirs or assigns, to be paid to him, her, or them, on the surrender of the original certificate of purchase out of any money in the treasury not otherwise appropriated. And for the purpose of ascertaining the amount of state and county taxes which the purchaser may have paid, the owner shall also produce the county treasurer's certificate of the amount, and file the same with the treasurer of the corporation, and said corporation treasurer shall give said owner duplicate receipts for the amount paid, describing the lot or lots, one of which said owner shall file with the clerk of said corporation; and the treasurer shall also report the same to the president and trustees at their next meeting.

SEC. 20. In case the owner of any lot or fraction of lot so sold as aforesaid, his, her, or their agent or attorney shall not pay the amount of the purchase money and taxes, with the per centum thereon as aforesaid, within two years from the day of sale thereof, it shall be the duty of the collector then in office, to make a deed to the purchaser, his, her, or their heirs or assigns, for such lot or fraction of lot; which deed, acknowledged according to law, shall vest the right and title in fee simple to said real estate in the purchaser, his heirs and assigns, and divest the owner or owners of title thereto; and said deed shall be prima facie evidence of the correctness of all prior proceedings.

SEC. 21. The collector shall be allowed fifty cents for each deed, to be paid by the person to whom the deed is made.

SEC. The president and trustees shall allow to the collector such percentage on the amount collected and paid over, or such other compensation for his services as to them may seem proper and right.

SEC. 22. It shall be the duty of the collector to pay over to the treasurer, on or before the first Monday in December annually, all moneys by him collected, and take his receipt therefor; which receipt, together with the tax list with his proceedings thereon, and

also a statement of the lots sold, setting forth the name of the purchaser, with a description of the lot or lots or part of lots, the amount of tax and costs due, and the amount for which it was sold; and also, on a separate roll, a list of delinquents, for which delinquent list he shall receive a credit, if deemed correct and true; all of which shall be filed with the clerk of said corporation, and if the whole is deemed correct, said clerk shall give said collector a quietus.

SEC. 23. All laws or ordinances of a public nature, passed by the president and trustees, shall be published in some newspaper printed and published in said town, or published by posting up a written copy thereof in some public place in each ward, before the same shall be of force, and shall be signed by the president of said corporation.

SEC. 24. The president and trustees shall also have power to tax at discretion, all kinds of theatrical exhibitions, animals, circuses, artificial and natural curiosities, shows and performances of any kind, acted or exhibited for pay or reward, by obliging the owner or owners, manager or managers thereof to take license, in such manner as said president and trustees shall direct; and for that purpose, as well as for the purpose of removing and abating nuisances, their jurisdiction shall extend one-half mile beyond the limits of said town.

SEC. 25. No money shall be drawn from the treasury for any purpose whatever, except it be on the order of the president and trustees, which order shall be signed by the president and attested by the clerk, and shall be regularly numbered, and shall be registered by the clerk in a book kept for that purpose.

SEC. 26. The president and trustees shall have power, from time to time, to appoint such marshals, constables, or other officers, as they may deem necessary to carry out and enforce all orders, ordinances, by-laws, decrees, or regulations of said corporation; to prescribe their duties and regulate their compensation, and remove all such officers at pleasure.

SEC. 27. The limits of the corporation shall embrace all the lots of the town of Winchester, as follows: commencing at the N. E. corner of in lot No. 1, in the N. E. square—thence West to the North West corner of in lot No. 3, N. West square—thence South to the South West corner of in lot No. 8, S. W. square—thence East to the S. E. corner of in lot No. 16, in S. E. square—thence North to the place of beginning.

SEC. 28. That all corporations so far as relates to the town of Winchester, which may have been heretofore created under and by virtue of "an act providing for the incorporation of towns," approved February 17, 1838, be, and the same are hereby dissolved.

SEC. 29. This act shall be deemed and taken to be a public act; shall be favorably construed for any beneficial purpose, and shall take effect and be in force from and after its passage and publication in the "Winchester Patriot;" and it is hereby made the duty of

the secretary of state to forward a certified copy to the editor for that purpose.

CHAPTER II.

An act to incorporate the town of Peru.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Asembly of the State of Indiana*, That Jacob Fallis, Albert Cole, James M. Defrees, George W. Goodrich, and Edward H. Bruce, be, and they are hereby appointed councilmen of the corporation of the town of Peru, in the county of Miami and state of Indiana, to serve as such until the second Monday in March, one thousand eight hundred and forty eight, and until their successors are elected and qualified as hereinafter directed.

SEC. 2. That the said councilmen shall elect a mayor from their own body, whose duty it shall be to preside at all meetings of the board, preserve order, put all questions, and upon an equal division of the board, give the casting vote; and the said council shall also appoint all officers contemplated in the fourth section, and all other officers necessary to carry into effect the provisions of this act, and make such compensation as to them shall appear reasonable and right; who shall severally hold their offices until the next annual election, and until their successors are elected and qualified as hereinafter directed.

SEC. 3. That the said mayor and council of said town, and their successors in office, shall be and the same are hereby declared to be a body politic and corporate, with perpetual succession, by the name and style of "the mayor and council of the town of Peru," and by that name and style shall be able and capable in law and equity to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court of competent jurisdiction; and shall have power to make, use, and have a common seal, and the same to break, alter, amend, and renew at pleasure; to ordain, order, establish, and put into execution and effect such by-laws, rules, regulations, and ordinances, as they shall deem necessary and proper for the benefit and convenience of the citizens of said incorporated town; and shall also have power to adopt and put in force such laws, ordinances, and regulations as they shall deem necessary for the police, and good government and order of said town hereby incorporated, subject, however, to the re-

strictions, limitations and provisions, hereinafter provided, and not inconsistent with the constitution and laws of this state or of the United States.

SEC. 4. That the said mayor or council or a majority of them, shall have power to lay off said town into as many wards as they shall deem necessary, and on the second Monday of March, one thousand eight hundred and forty eight, and annually thereafter, there shall be an election at the court house, or some convenient place in said town, to be designated by the said mayor and council, to elect by ballot, one mayor, one councilman from each ward, one recorder, one treasurer, one marshal, and one street commissioner, at which election each white male inhabitant of said town who shall have the qualifications of a vote for state and county officers, and shall have resided within the bounds of the said corporation six months next preceeding said election, shall be entitled to vote at the same; ten days previous notice of which election shall be given by the mayor and council aforesaid, by publishing the same in some newspaper printed in said town, if there be one, otherwise by putting up written notices thereof in three of the most public places in said town, designating the time and place when and where said elections are held; and no person shall be eligible to election to the office of mayor or councilman, unless he is a resident freeholder within said corporation, possessing like qualification of the voters at such elections as aforesaid; and said officers so elected as aforesaid, shall severally hold their offices until the next annual election, and until their successors are elected and qualified.

SEC. 5. The mayor and council, at their meeting preceding the annual elections, shall appoint an inspector of all elections, whose duty it shall be to attend the same, and call to his assistance two qualified voters who shall be judges of said election, and they shall appoint two clerks of the same, all of whom, after taking an oath or affirmation, which oath or affirmation may be administered by said inspector to said judges and clerks, and by one of the said judges to said inspector, faithfully to discharge their respective duties, shall proceed to receive votes between the hours of ten o'clock A. M. and four o'clock P. M. on said day: the judges shall determine the legal qualifications of voters, for which purpose the inspector may administer to the voter the necessary oath, if the said inspector shall not be present at the proper time of opening such election, the electors may choose one to act in his place, or if the electors fail to meet, the corporation shall not thereby be dissolved, but the mayor and council and other officers then in office, shall continue until others, their successors, shall be elected at an annual meeting of said electors.

SEC. 6. It shall be the duty of the inspector and judges of said election to certify under their hands and seals, the persons who receive the highest number of votes, together with the offices to which they were severally elected, which certificate shall be filed and kept on record by the recorder of the corporation, whose duty it shall be to deliver a copy thereof to each of the persons elected, which cer-

tificate shall be sufficient authority for such person to take his seat as such officer, provided he shall duly comply with the provisions hereinafter specified; in case there shall be a tie between any persons at said election the result shall be determined by lot, to be drawn by the judges; the officers elected as above directed, shall meet within ten days after such election, and take an oath or affirmation faithfully, diligently, and impartially to discharge their several duties as such officers; when vacancies happen by death, resignation, refusal to serve, or otherwise, such vacancies shall be filled by appointment of the council until the next annual election; a majority of the council including the mayor, shall at all times form a quorum, and shall meet on their own adjournment, and may from time to time hold a council, at such place as the mayor or recorder shall appoint, and shall have full power and authority to enact and publish all such laws and ordinances as to them shall seem necessary, relative to the regulations of streets and highways, keeping the same in repair, by cleansing, raising, draining, or turnpiking or otherwise; and for causing and requiring owners of inlots to pave or McAdamize the side walks in front of their respective lots, in such part or parts of said corporation, as the said council shall from time to time prescribe; and for establishing market houses, regulating markets, and for restraining swine from running at large within the said corporation, and for the preservation and safety of buildings, for cleaning chimneys, for preventing or extinguishing fires within the limits of said corporation, and for regulating the height and extent of fences before yard doors in said corporation, to impose reasonable fines upon all persons transgressing against the laws and ordinances made as aforesaid, and to enact and publish all such other laws and ordinances as the said council shall deem necessary and proper for the health, safety, cleanliness, convenience, and good government of said corporation, and the inhabitants thereof, not contrary to the constitution and laws of the United States, or of this state, all which laws and ordinances, shall be deposited with and preserved by the recorder; *Provided*, That all laws and ordinances which shall be passed by said council, shall be published at length on the door of the court house in Peru, or in a newspaper published in Peru, at least ten days, by order of said council, after which publication in manner aforesaid, such laws and ordinances shall be and remain in full force, until repealed or modified by the proper authority.

SEC. 7. It shall be the duty of the mayor to sign all laws, ordinances and decrees of a public nature, and also to sign the records of all their by-laws and journals or minutes of their proceedings; he shall also be a conservator of the peace within the county of Miami, and shall have the same power as a justice of the peace in civil and criminal cases, to apprehend, commit, fine, or hold to bail, for any offence against the laws of this state, committed within the limits of said county; and the town marshal shall serve and execute all process to him directed, and shall have the same power and au-

thority of a constable in civil and criminal cases, within the limits of said county; and it shall be the duty of the marshal to suppress all riots, disturbances, and breaches of the peace, and to apprehend all riotous, disorderly persons, or disturbers of the peace, and forthwith convey them before the mayor, and in case of resistance, it shall be lawful for him to command the aid of any by-stander, in apprehending and conveying such offender to the mayor's office, and it shall be the duty of the mayor forthwith to hear and determine the complaint; *Provided*, That an appeal shall be allowed to the circuit court from the judgment of the said mayor or recorder of said council in all civil and criminal cases, in the same manner and under the same regulations and restrictions as is or may be provided by law in case of judgments rendered by justices of the peace.

SEC. 8 That the mayor of the council shall, and he is hereby authorized and empowered, upon view, or information founded upon oath of the violation of any law or ordinance passed by said council, to issue a warrant directed to the marshal, commanding him to bring before him, the said mayor, the person or persons properly charged with such violation; and shall have power to summon witnesses throughout the county of Miami, and to impose a fine for neglect or refusal to obey such summons; to administer all necessary oaths or affirmations, and to hear and determine such accusation, and upon conviction, to impose such fine as the laws and ordinances shall prescribe, and shall allow to witnesses for attendance fifty cents per day, and to the marshal such fees for serving process and other services required of him, as are allowed by law to constables in civil cases, and tax such costs against the person or persons so convicted; and the said mayor or recorder shall cause such fine or fines to be collected, together with costs, of the chattles of the person so convicted, and if sufficient goods and chattles cannot be found, to commit the person or persons so convicted, to the jail of the proper county, as justices of the peace may now commit; and the marshal in executing said process, shall be governed by the same rules and regulations, provided or hereafter to be provided, for serving executions by constables in such cases, and shall have the same power and authority which are or may be given to them by law; and the said fine or fines when collected, shall be paid over by the marshal to the mayor or recorder of the council, who shall pay the same to the treasurer of said corporation, taking his receipt therefor, and report the same to the said council at the next meeting thereof, after such payment; *Provided*, That no person shall be imprisoned under the authority of this section, for a longer period than twenty-four hours at any one time.

SEC. 9. That the mayor shall keep a docket in which he shall regularly enter all causes brought before him against any person or persons, in civil and criminal cases, under the laws of this state, and for violations of the laws and ordinances of the council; and shall, on the application of any defendant or defendants, plaintiff or plaintiffs, and the payment of such fees as are allowed by law

to justices of the peace in like cases, give to him or them a transcript from his docket, which, when duly entered and recorded by the clerk of the proper circuit court, shall have the effect of transcripts from justices of the peace.

SEC. 10. That all warrants and process shall be in the name of the mayor and council of the town of Peru, sealed with the seal of the corporation, and signed by the mayor.

SEC. 11. That the recorder shall, in the absence, death, or disability of the mayor, have, hold, and execute the several offices and duties imposed on the mayor by this act.

SEC. 12. Within ten days after the election, the mayor, treasurer, marshal, and recorder shall each enter into bond for the faithful performance of their several duties as such officers in a sum of not less than three hundred nor more than two thousand dollars, to the satisfaction of said council, payable to the state of Indiana, for the use of the corporation; which bonds shall be deposited with the recorder of said corporation, and upon which suit may be brought for neglect of duty, in the name of the State of Indiana, for the use of the corporation, or any person or persons aggrieved.

SEC. 13. That the said council shall be allowed the use of the jail of Miami county for the confinement of all such persons as shall be liable to imprisonment under the eighth section of this act, and all persons so imprisoned shall be in the charge of the keeper of said jail until discharged by due course of law.

SEC. 14. The recorder shall attend all meetings of the council, shall make a record of all their proceedings in a book kept for that purpose, enter in said book all laws and ordinances passed by said council, and when said council shall direct, it shall be the duty of said recorder to procure from the county auditor of Miami county an abstract of all the taxable property within the bounds of said corporation, which abstract shall govern said recorder in making out his duplicate of taxes.

SEC. 15. The marshal and council shall cause the recorder to make out a fair duplicate of all persons taxable with personal property, and with real property, with its valuation, setting forth the owners' names, if known, the amount of tax chargeable to each person, and shall deliver the same to the marshal on or before the first day of May annually, and certify the amount of tax contained in such duplicate to the treasurer; such duplicate so put into the hands of the marshal, certified by the mayor, and attested by the recorder, shall be sufficient authority for the marshal to collect the same.

SEC. 16. It shall be the duty of the marshal, whenever he is furnished with a duplicate of taxes to be collected, duly certified by the mayor, and attested by the recorder of said corporation, to proceed to the collection of the same, within such time as the council of said corporation may direct; and for such service the council shall allow what they may think just and right.

SEC. 17. It shall be the duty of the marshal to receive the amount of taxes due from each individual on or before the first day of June in each year, and to account and pay the same over to the treasurer immediately, and in all cases where the taxes assessed are not collected by that time by any individual, it shall be the duty of the marshal to proceed and collect the same by distress and sale of any of the personal property of such delinquent, subject to execution by the laws of this state, by giving ten days' notice of the time and place of such sale by setting up three advertisements in public places. If any person liable to pay tax shall have been omitted by the recorder in his duplicate, the marshal shall assess and collect the same, and make return thereof as in other cases.

SEC. 18. In all cases where the tax due and owing cannot be collected of the goods and chattles of such delinquent, it shall be the duty of the marshal to make sale of the lots or fractions of lots belonging to such person, or so much thereof as will pay the tax and costs due thereon, by giving four weeks notice of the time and place of such sale in some weekly newspaper published in said town or county, or by posting up five written notices in the most public places in said town, in which notices he shall describe the lot or lots to be sold by their proper number, or some other certain description, with the owner's name, if known, or the person's name to whom it is supposed to belong, and file a copy of one of said advertisements with the recorder of said corporation, to be filed by him among the records of said corporation. The marshal shall, on the day of sale, by proclamation, proceed to sell the lot or lots to the highest bidder, or to the person who will pay the tax and costs due, for the smallest portion of the lot or lots so offered for sale, and shall give to each purchaser a certificate of such purchase, setting forth the quantity sold, the amount paid, including tax and costs, and that said purchaser will be entitled to receive a deed for the same at the end of two years, unless the owner, or some person for him, her, or them, shall redeem the same on or before that time, by paying the said purchaser, his, her, or their heirs and assigns the amount of the purchase money, cost of certificate, with fifty per centum thereon, and six per cent. interest on the whole sum until paid, or deposit the amount thereof with the recorder of the corporation. Such certificate shall be assignable, but no such assignment shall be valid unless acknowledged before the mayor and recorded by the recorder of said corporation.

SEC. 19. The marshal may adjourn his sale from day to day for three days, and if, at the final adjournment of his sale, any lot or lots shall remain unsold for want of buyers, he shall make return thereof to the recorder of the corporation, and the amount of tax shall remain as a lien upon such lot or lots, and shall be added to the next year's assessment, together with fifty per centum thereon. It shall be the duty of the marshal to certify to the recorder of the corporation, a list embracing a description of the lots or fractions of lots by him sold as aforesaid, in whose name and by whom

purchased, amount sold for, including costs of advertising, which said list or return shall be by said recorder entered in a register kept for that purpose. The marshal shall be entitled to demand and receive from the purchaser or purchasers the sum of fifty cents for each sale and certificate; and the marshal shall, prior to the sale, add to the tax on his duplicate the cost of advertising, by charging an equal amount of the whole costs to each description of lots or fractions of lots, for which amount of taxes and costs the marshal shall sell the same. The marshal shall make return of his proceedings, and the sales made, to the recorder, on or before the first day of August annually, and pay to the treasurer all moneys by him collected, at which time he shall furnish a list of delinquents, for which he shall receive a credit, if deemed correct and true.

SEC. 20. If no person shall redeem such land within two years, at the expiration thereof, and on the production of the certificate of purchase, and in case the certificate only conveys a part of a lot, then accompanied with a survey of such part by the county surveyor, so taken and laid out that it shall extend from the main or principal street, road, or alley, forming the most convenient front to such lot, to the rear of such lot, and to bound the same by lines as nearly parallel with the outlines of such lot as practicable, the recorder of the corporation shall execute to the purchaser, his heirs or assigns, in the name of the state, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however, to all the claims which the state may have for other liens or incumbrances. Such conveyance shall be executed by the recorder of said corporation, under his hand and the seal of said corporation, and the execution thereof witnessed by the marshal, and shall be *prima facie* evidence that the sale was regular, and of a good title in such grantee, his heirs, and assigns. Whenever the recorder of the corporation shall discover, prior to the conveyance of any lot or lots sold for taxes, that the sale was for any cause whatever invalid, he shall not convey such lot or lots, but the purchase money and interest thereon shall be refunded out of the treasury of the corporation to the purchaser, his representatives or assigns, on the order of the recorder; and such lot, if originally liable to taxation and being still delinquent, shall again be placed on the duplicate as delinquent, and the amount so refunded with interest, to be collected as in other cases. No sale or conveyance of land for taxes shall be valid if, at the time of being listed, such land shall not have been liable to taxation; or if liable, the taxes thereon shall have been paid before sale, and in all such cases the money paid by the purchaser at such void sale shall be refunded out of the treasury of the corporation on the order of the recorder. If any conveyance for taxes shall prove to be invalid, and ineffectual to convey titles for any other cause, the lien the corporation has on such land or lots shall be transferred to and vested in the grantee, his heirs, and assigns, who shall be entitled to re-

cover from the owner of such land or lot the amount of taxes, interest and penalty, legally due thereon at the time of sale, with interest, together with the amount of all subsequent taxes paid, with interest, and such land or lot shall be bound for the payment thereof. The sale of land or lots for taxes shall not be invalid on account of such land or lot having been listed or charged on the duplicate in any other name than that of the rightful owner. When conveyances are delivered for lands sold for taxes the certificates therefor shall be cancelled and filed away by the recorder; and in case of the loss of any certificate, on being satisfied thereof by due proof, the recorder may execute and deliver the proper conveyance, and file such proof in his office. A register shall be kept by the recorder in his office containing a brief description of the lands conveyed by him for taxes, the name of the person charged therewith, the date of sale, the name of the purchaser, the amount for which sold, the name of the grantee in the deed, and the date of its execution. When lands sold for taxes, or any portions thereof, shall be redeemed, the recorder shall insert a memorandum of such redemption, the quantity or description redeemed, if not the whole, the date thereof, and by whom made, on his record of sales of land for delinquent taxes, and sign the same officially, and shall likewise give a certificate thereof to the person redeeming. The records made by the recorder of the corporation respecting the delinquent lands, the manner of advertising the sales thereof, the sales made of the same, and the conveyance therefor executed, and all copies of such records, duly certified to be such by the recorder of the corporation, under the seal of the corporation, shall be received as *prima facie* evidence of the facts contained therein.

SEC. 21. The recorder shall acknowledge the execution of all deeds by him made for the taxes before the mayor, or some other officer authorized to take acknowledgements, and for every deed executed by him, he shall be entitled to the sum of one dollar, to be paid by the grantee in such deed.

SEC. 22. The marshal shall be vested with the powers of a constable, serve all process issued by the mayor, and be governed in all his official acts by the laws of the state regulating the duties of constable, whose fees shall be the same as that of constable for similar services.

SEC. 23. All bonds given by the officers of the corporation, and all contracts entered into with the corporation, shall be in the name of "the mayor and council of the town of Peru," and all suits commenced for the benefit of the corporation, or when the corporation shall be defendant, shall be in the name of "the mayor and council of the town of Peru," without setting forth the name of any member thereof.

SEC. 24. It shall not be lawful for any person or persons within the bounds of the corporation, or within one half mile of the bounds thereof in every direction from said bounds, to sell by a quantity less than one quart, any spirituous, foreign, or domestic liquors, or keep

what is commonly called a tippling house or doggery, unless such person or persons shall, in addition to a license obtained from the board of county commissioners, obtain a license from the corporation, which is hereby authorized to grant the same to such applicant for one year or less, on his, her, or their paying into the treasury of the corporation a sum not exceeding fifty nor less than three dollars, at the discretion of the corporation; and if any person or persons shall sell any spirituous liquors, or keep what is commonly called a tippling house or doggery, contrary to the provisions of this act, such person shall forfeit and pay a penalty of not less than ten nor more than one hundred dollars for the benefit of the corporation, to be recovered by action of debt; *Provided*, That such applicant for such license shall present to the mayor and council of said corporation, such petition as is now required by law to be presented to the board of county commissioners of Miami county for such license; *And provided further*, That all petitions for license to retail spirituous liquors within the bounds of said corporation, shall be signed by twenty-four resident freeholders within said corporation.

SEC. 25. And for the better regulation of said corporation, and for the good order and government of the town, the mayor and council may pass such by-laws and ordinances, regulating their own conduct, and imposing such fines upon members for a breach of any of their rules or regulations, as they may conceive conducing to the public good, and a majority of all the council elect may expel a councilman for improper or disorderly conduct, and also pass and adopt laws and ordinances for the suppression and punishment of immoral or indecent conduct, intoxication, rioting, or whatever may detract from the good order of society.

SEC. 26. Whenever the owner of lots on any street or section of a street shall be desirous of making any improvement on the same, by grading, graveling, or paving said street or side walks thereof, or any other improvement on said street or side walks; two-thirds of the resident owners of lots in said street or section of street representing two-thirds of the whole number of feet on each side of said street or section of street, or two-thirds of the whole number of feet on one side of any side walk, and shall, by petition, represent to the mayor and council of said corporation, plainly and distinctly, the improvement wanted or contemplated to be made, it shall be the duty of the mayor and council to cause the same to be done in the best and most economical manner, agreeably to the wish of said petitioners, and the expense of such improvement shall be assessed and levied on all the lots fronting on said street, or section of street, equal per foot for the distance such improvement may be intended to extend, which assessment and levy, from the time of making the same, shall be and remain a lien upon said lot or lots until the amount so assessed and levied, shall be fully paid and discharged. It shall be the duty of the recorder of the corporation to enter such petition on record, with the petitioners' names, the number of feet (front) owned by each, and shall make out and de-

liver to the marshal of the corporation a list of the owners' names, the number of feet front owned by each individual, the rate of expenses on each lot for such improvement, and the whole amount assessed and levied on each lot or fraction of lot, which list, signed by the mayor, and certified by the recorder, shall be sufficient authority for said marshal to proceed and collect the same; and if the owner of any lot or part of lot shall neglect or refuse to pay the amount so assessed and levied, within three months after such levy, the marshal shall proceed to collect the same by sale of such lot or part of lot, or so much thereof as will pay the amount so levied; and in such sale and conveyance to the purchaser thereof, he shall, in all respects, be governed by the eighteenth and nineteenth sections of this act, and the right of redemption shall be the same as provided in the eighteenth section of this act; and if any such lot or fraction of lot shall not sell for want of buyers, or any other legal cause, the same may be reoffered by such collector, from time to time, until the same shall be sold, adding the costs, that may accrue at each time for advertising, &c. And the marshal shall be entitled in addition to the costs of advertising, to the same fee for such sale as he is allowed in the nineteenth section of this act, for making sale certificate, and for making a deed to any real estate sold under the provisions of this act, the recorder making the same shall be allowed one dollar, and twenty-five cents for having the same acknowledged, to be paid by the person receiving said deed; *Provided*, That this section shall not be construed so as to conflict with the provision contained in the sixth section of this act.

SEC. 27. The mayor and council shall have at all times, full power to refund any moneys wrongfully collected as taxes, and to correct any assessment or tax list, by adding thereto, or subtracting therefrom, as to them shall seem right.

SEC. 28. No person shall be incompetent to be a witness, in suits for the violation of any by-law or ordinance of the mayor or council, because such person is a citizen of the town.

SEC. 29. The recorder shall keep a record of all the by-laws, ordinances and other proceedings of the mayor and council, and a copy thereof certified by him, under the seal of the town, shall be sufficiently authenticated to be admitted as evidence in any court of this State. He shall also be the keeper of the seal, records, and files of the corporation. The treasurer shall have the custody of all moneys of the corporation, and pay over the same to the order of the mayor and council; he shall also report to them the condition of the treasury, at their first meeting in September of each year, and such other times as they may specially direct.

SEC. 30. The mayor shall have power to issue, under the seal of the mayor and council, and the marshal to serve process in any manner relating to any violation of the laws and ordinances of the mayor and council, and to carry the same into as full effect for any violation thereof, as justices of the peace and constables, have now or may hereafter have to carry into effect any process issued by vir-

tue of any law of this state, and shall be entitled to receive, and authorized to demand and collect the same fees that are or shall be allowed to justices of the peace and constables for performing similar services; and the parties to any suit before the mayor, shall have the same right to a change of venue, to a trial by jury, and to an appeal, as if the same was pending before a justice of the peace. And the mayor when officiating, as authorized by this section, shall keep a record of his proceedings, which record, or a certified copy thereof, shall in all respects have the same effect as the docket of justices of the peace, and shall be evidence in any court. The marshal shall attend all trials before the mayor, shall serve all process issued by the mayor, and his power for this purpose shall be co-extensive with the county of Miami:

In case of the absence or inability of the marshal, the mayor may direct process to some other person, whose authority and duty shall be the same as that of the marshal in like cases. It shall be the duty of the marshal to report to the mayor all violations and infractions of the penal regulations of the corporation, which may come to his knowledge, and shall be a peace officer within the town.

SEC. 31. It shall be the duty of the keeper of the jail of Miami county to receive into his custody any prisoner or prisoners who may from time to time be committed to his charge under the authority of said mayor, and to safely keep every such prisoner, according to the warrant or precept of commitment, until he, she, or they shall be discharged by due course of law.

SEC. 32. The mayor and council shall have power to levy and collect annually, of each male inhabitant of the town who shall be twenty-one years of age, and not a pauper, a poll tax not exceeding one dollar, and on real property a tax not exceeding one percentum on its valuation, exclusive of, or one third of one per centum inclusive of improvements, at the discretion of the mayor and council; and may also levy a tax not exceeding one-third of one per centum upon all personal property for the use of the corporation, and in addition to the above, they may levy a tax on real property, not exceeding one-half per centum on the valuation, either including or excluding improvements, at their discretion, for the purchase of a fire engine.

SEC. 33. The mayor and council shall have power to grant a license to persons wishing to exhibit for gain in said town, or within one half mile of the limits thereof, any animal, wax figure, or other natural or artificial curiosity, or any feats of horsemanship, circus riding, tumbling, vaulting, rope or wire dancing, legerdemain, ventriloquism, or other amusement, upon their paying to the treasurer of the town, a sum not less than two nor more than twenty dollars, for each exhibition of such shows; and if any person shall, without having first obtained such a license from the mayor and council, exhibit any such show or performance for gain as aforesaid, in the town or within one half mile from the limits of the same, such person shall forfeit and pay a penalty of not less

than ten nor more than fifty dollars for any such violation, for the benefit of the town, to be recovered by action of debt:

SEC. 34. The bounds of the corporation for the purpose of raising a revenue by taxation, shall extend to the limits of the town plat, as the same is recorded in the recorder's office of Miami county and to the limits of all the additional plats which have or may hereafter be laid off of town lots adjoining thereto; and the said corporation may extend its jurisdiction, for the purpose of removing nuisances, and to carry into full and complete effect its laws and ordinances, one full half mile beyond the limits aforesaid in every direction.

SEC. 35. The bounds of said incorporation shall constitute one road district, which road district shall be under the control of the council of said incorporation, who may order the street commissioner to keep the same in good repair; which street commissioner shall have all the authority of a supervisor over the hands within the bounds of said district, who shall be subject to the order of the street commissioner in the amount of labor necessary to be done, and said commissioner to the order of the council; which street commissioner shall be allowed such compensation as the council may deem just and right.

SEC. 36. All moneys arising from fines, licenses, and other sources accruing under the regulations of said corporation, shall be paid into the treasury thereof, and shall be expended under the direction of the council, to the repairs of the streets and such other purposes as they may deem most expedient.

SEC. 37. All by-laws and ordinances of a public nature, made by the mayor and council, shall be in force as soon as a copy thereof attested by the recorder, shall have been published for ten days in a newspaper of the town, or posted for such length of time in three of the most public places.

SEC. 38. This act shall be a public act, and shall be judicially noticed and liberally construed by all the courts of this state, and shall take effect and be in force from and after its passage. And it is hereby made the duty of the secretary of state, to make out immediately, and forward to the auditor of Miami county, a certified copy of this act.

CHAPTER III.

An Act incorporating the South Bend Woollen and Cotton Manufacturing Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John H. Harper, Simeon W. Hopkins, John Gilmore, Alanson B. Merritt, Leonard G. Harris, George W. Matthews, Eliakim Briggs, and John A. Henricks, and such other persons as may associate with them, and their successors shall be, and they are hereby declared to be a body corporate and politic, by the name and style of the "South Bend Woollen and Cotton Manufacturing Company," and as such shall have continued succession, and be established at the village of South Bend, in the county of St. Joseph, and may establish branches for conducting its business in said county at such places as may be thought advisable by said company; and by their corporate name may sue and be sued, plead and be impleaded, contract and be contracted with, and may have and use a common seal, and the same may alter or abolish at their pleasure; they may purchase, hold, possess and convey property both real and personal, so far as the same may be necessary for the purpose of carrying on the business of said company.

SEC. 2. The capital stock of said company shall consist of not more than fifty thousand dollars, in shares of fifty dollars each, and shall be deemed and taken to be personal property, and may be assigned on the books of said company to be kept for that purpose, and not otherwise: *Provided*, That no assignment shall be made by any stockholder against whom the said company shall have any valid claim, unless by the consent of the directors of said corporation.

SEC. 3. Said corporation shall have power to manufacture cotton and woollen goods, and machinery of any kind, and may manufacture any products of this or any other states into commodities for consumption or market, except distilled or fermented liquors, and from time to time may make and enact such rules, regulations and by-laws as they may deem necessary for the regulation of said company, not inconsistent with the constitution and laws of the United States and of this state.

SEC. 4. The persons named in the first section of this act, or any three of them, are hereby constituted commissioners, and as such are authorized to open books and receive subscriptions to the capital stock of said company at such times and places as they shall deem most expedient after the passage of this act, and so much of said subscriptions shall be paid in by the subscribers at the time of subscribing therefor as the said commissioners shall direct, and as soon as the sum of ten thousand dollars shall be subscribed, the said company may commence business.

SEC. 5. As soon as the sum of ten thousand dollars shall be subscribed to the capital stock of said company, the aforesaid commissioners shall order an election of five directors of said company, who shall have the management and government of the affairs and business of said company, and of the stock and property thereof. The said commissioners shall give at least fifteen days' notice of the time and place of such election in some public newspaper published in the town of South Bend, and shall attend at the time and place of such election, and shall act as inspectors and judges thereof.

SEC. 6. The directors of said corporation shall be chosen from among the stockholders by ballot, and shall hold their offices for one year from the time of their election, and until their successors shall be chosen; the stockholders in said company may vote by proxy, and shall be entitled to one vote for each and every share of stock they may hold; and should any vacancy occur in said board of directors, by death, resignation, or otherwise, the remainder of said board shall have power to fill such vacancy.

SEC. 7. The said board of directors shall appoint one of their number to act as president, and shall have power to appoint all officers, agents, and servants that they shall think necessary to carry on their business, and may require security from the same, and all such officers to remove at pleasure.

SEC. 8. The said board of directors shall have power to fix and appoint the time of holding the annual meetings of said company for the election of directors of said corporation, at which meetings the said board shall exhibit a statement of the business and standing of said company, which statement shall be entered of record on the books of said company, which shall be at all times open to the inspection of any stockholder.

SEC. 9. All instalments required to be paid on the subscriptions to the capital stock of said company, after the election of directors shall be assessed by said directors, of which assessment said directors shall give thirty days' notice in some public newspaper in the vicinity of said company, before such instalment so assessed shall be considered due, after which said directors shall proceed to collect the same by due course of law, together with all costs of suit, and such tax or damages as they may assess against delinquents for refusal to pay such instalments, not to exceed ten per cent. on the amount of such instalment.

SEC. 10. This act shall be deemed a public act, and as such shall be recognized by all courts of this state, and shall take effect and be in force from and after its passage and publication in the St. Joseph Valley Register, a weekly newspaper published in South Bend, St. Joseph county, Indiana, and shall continue for the period of thirty years; *Provided*, That said company shall have three years after the expiration of said charter to settle up their business.

SEC. 11. That it shall be the duty of the secretary of state to

forward, immediately after the passage of this act, a copy thereof to the editor of the paper specified in the last preceding section.

CHAPTER IV.

An Act to Improve the Roads in the County of Switzerland.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the trustees of the several townships in the county of Switzerland, to meet on the first Monday in May of each and every year and agree upon and decide the amount that shall be assessed on the taxable property in their several townships for road purposes for that year; and the clerks of said boards of trustees shall certify the amount so agreed upon to the board of commissioners in said county of Switzerland at their June session thereafter.

SEC. 2. And it shall be the duty of the board of commissioners of said county to assess the amount so certified to them on the taxable property in said township for road purposes: *Provided*, That said tax shall not exceed twenty-five cents on each one hundred dollars' worth of taxable property in said townships.

SEC. 3. It shall be the duty of the county auditor to charge the amount so assessed for road purposes on the duplicate: And the treasurer of said county shall collect the same in cash and at the general settlement shall pay the same, after deducting the usual per centage, to the township treasurers of the several townships, who shall hold the same, subject to the order of the boards of trustees of the said several townships.

SEC. 4. It shall be the duty of the trustees of the several townships in said county of Switzerland to select a certain road in each of their several townships and apply the money so received and the labor due on the road in their several townships on said roads, until the same are McAdamized and completed; and then select the next most important road in their several townships, and so on until all the important roads in the several townships in said county are completed; and for the furtherance of this object, the said trustees shall have the power and authority to make contracts and enter into agreements with any person or persons, or appoint an agent for that purpose, and may receive donations or grants from any person or persons; and in selecting the roads to be improved, the trustees may have regard to the amounts of donations offered: and

the said trustees shall have the power to change and make such alterations of the road districts in their several townships as they shall conceive necessary for the permanent improvement of the roads in their several townships.

SEC. 5. The people of each and every township in said county shall decide by a vote at any regular township election that they approve this act; and the trustees of any township in said county being satisfied that a majority of the people of the said township have voted for and approved said law, they shall make a record of said proceedings; and thereafter this act shall be in force in that township.

SEC. 6. This act to take effect and be in force from and after its passage and publication in the "Indiana Palladium" a newspaper printed and published in the town of Vevay, in the county of Switzerland, and it is hereby made the duty of the secretary of state to cause such publication to be made.

CHAPTER V.

An Act to locate a state road in the counties of Delaware, Madison, and Grant.

[APPROVED, FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Davis Thompson, of the county of Delaware, Joseph Hall, of the county of Madison, and Robert Wilson, of the county of Grant, be and they are hereby appointed commissioners to view, mark, and locate a state road, commencing at Moonsville, in Madison county, thence north-east up "Big Killbuck creek" on a state road leading from Chesterfield to New Cumberland, making such changes therein as may be necessary up to the crossing of the state road leading from Muncie, in Delaware county, to Delphi, in Carroll county; thence north on a county road to Samuel Brown's, and to the crossing of the county line between the counties of Delaware and Madison; thence north to Thomas Brayle's; thence on the best ground and nearest way to intersect a county road leading north to John Faulkboner's old stand, in Grant county, and thence to intersect the Richmond and Logansport state road.

SEC. 2. The said commissioners, or any two of them, shall meet at the place of begining on the first Monday in May next, or as soon thereafter as may be convenient, and after taking an oath or affirmation faithfully to discharge their duties, shall proceed to view, mark, and lay out said [road] upon the route as propose din the first section

of this act, or as near so as the ground will permit; and in all things the said commissioners shall be governed by the laws now in force, except so far as the provisions of this act conflicts with the same.

SEC. 3. The said commissioners may employ a surveyor[and] any other person or persons, if they shall deem it necessary, to aid them in the discharge of their duties, and report their proceedings in writing to the boards of commissioners of the counties of Delaware, Madison, and Grant, at their next terms after they shall have made such location, which said boards of commissioners shall declare said road a public highway, agreeably to the laws now in force regulating roads and highways; the said locating commissioners shall receive the sum of one dollar and fifty cents per day for their services, and such other person or persons as they shall employ shall receive such compensation as the board of commissioners shall allow, the expenses to be incurred by the provisions of this act shall be borne by the said counties of Delaware, Madison, and Grant, agreeably to the distance said road shall run through the same.

SEC. 4. This act to take effect and be in force from and after its passage; and it is hereby made the duty of the secretary of state to cause a certified copy of this act to be filed in the auditors' office of the said counties of Delaware, Madison, and Grant.

CHAPTER VI.

An Act to locate a state road in the counties of Allen and Wells.

[APPROVED FEBRUARY 10, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Isaac Hatfield, of the county of Allen, John Wandle, and Samuel B. Caley, of the county of Wells, be and they are hereby appointed commissioners to view, mark, and locate a state road commencing at the Fort Wayne and Bluffton state road, where the same crosses the line dividing said counties; thence west on said line, or as near thereto as the ground will permit, until it strikes the state road from Murray's to Dickey's lock.

SEC. 2. The said commissioners, or any two of them, shall meet at the beginning point in the first section of this act mentioned, on the 1st Monday of March next, or as soon thereafter as they shall agree upon, and after taking an oath or affirmation faithfully and honestly to discharge their duty as such commissioners, shall proceed to view, mark, and lay out said proposed road upon the route as proposed in the first section of this act or as near thereto as good

ground can be had; and in all things the said commissioners shall be governed by the laws now in force, except so far as the provisions of this act conflict with the same.

SEC. 3. The said commissioners may employ a surveyor if they shall deem it necessary, and report their proceedings to the boards of commissioners of the counties of Allen and Wells, at their next terms after they shall have located the same, which boards shall declare said road a public highway, agreeably to the laws now in force regulating roads and highways, for which service they shall be allowed the sum of one dollar and fifty cents per day each, one half of which shall be paid by the county of Allen and the other by the county of Wells, and said board may make such other and further allowance or allowances as to them shall seem just and proper.

SEC. 4. This act to take effect and be in force from and after its passage: and it is hereby made the duty of the secretary of state to cause a certified copy of this act to be filed in the auditors' offices of the counties of Allen and Wells.

CHAPTER VII.

An Act to locate a state road in the counties of Allen and DeKalb.

[APPROVED, FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That William Letcher, of Allen county, and Jacob Dills, and John Zimmerman of De Kalb county, be and they are hereby appointed commissioners to view and locate a state road commencing at the bridge across the St. Joseph river near Spencerville; thence south on the nearest and best ground to the centre of the north line of section 4, township 32 N., range 14 E., in Allen county; thence as near south as practicable, through said section 4 to the centre of section 9.

SEC. 2. That said commissioners, or a majority of them, shall meet at Spencerville on or before the first day of July next, and after having taken an oath faithfully and impartially to discharge the duties assigned them, shall proceed to view and locate said road agreeably to the points and courses designated in the first section of this act.

SEC. 3. The said commissioners shall, within thirty days after they shall have located said road as aforesaid, report to the county auditors of said counties so much of said road as may be located in

the respective counties of said auditors, which report the said auditors shall lay before their respective county boards at their next session thereafter: and said county boards shall severally cause said report so made to be recorded and order the said road to be opened, and the said county boards shall severally make to said commissioners such compensation as shall be reasonable, to be paid by each county in proportion to the distance which said road extends in each county.

SEC. 4. It is hereby made the duty of the secretary of state to transmit by mail to the respective auditors of the counties of Allen and De Kalb each a certified copy of this act; transcripts of which shall be transmitted by the said auditors to the commissioner or commissioners mentioned in the first section of this act, residing in their respective counties.

SEC. 5. This act to be in force from and after its passage.

CHAPTER VIII.

An Act authorizing the appraisement of lands in Monroe and Irvin townships in Howard county.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be lawful for the board of county commissioners for the county of Howard, at their March term next, to appoint some suitable person of said county as appraiser of lands therein, whose duty it shall be to appraise all the taxable lands in the townships of Monroe and Irvin in said county of Howard.

SEC. 2. The board of commissioners, appraiser, county auditor, and others connected with the carrying of this act into effect, shall be governed by the provisions of an act entitled "an act to value the property of this state," approved February 12, 1841.

SEC. 3. It shall be the duty of such appraiser to report said appraisement to the board of commissioners at their June term, 1848.

SEC. 4. This act to be in force from and after its passage; and it is hereby made the duty of the secretary of state to forward by mail a certified copy of this act to the auditor of said county of Howard.

CHAPTER IX.

An Act relative to Probate Judges in the County of Porter.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of commissioners of the county of Porter may, at any of their regular sessions, increase the compensation of the probate judge of said county, not exceeding two dollars per day, payable out of the county treasury of said county.

SEC. 2. This act shall be in force from and after its passage, and the filing of a certified copy thereof in the clerk's office of said county, and it shall be the duty of the Secretary of State to immediately forward to the clerk of said county of Porter, a certified copy of this act.

CHAPTER X.

An act for the selecting of Jurors in the county of Delaware.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the commissioners in and for the county of Delaware, shall, at their next June term write down the names of the qualified voters of said county each on a separate ballot, which list of names shall be renewed from time to time as occasion may require. The names of such voters of each township in said county, when so written out, shall be put into a box obtained and kept for the purpose, out of which the clerk of said county shall draw so as to have one grand and one traverse juror from each township in said county, the other names in said boxes to be preserved over and drawn as occasion may require, until the names in either or all the boxes are exhausted, when they shall be renewed in the way and manner above provided.

SEC. 2. All laws and parts of laws contravening the above act, be and the same are hereby repealed.

SEC. 3. This [act] is to be in force from and after its passage. And further that it shall be the duty of the Secretary of State to forward immediately a certified copy of the above act to the clerk of Delaware county.

CHAPTER XI.

An act leaving it discretionary with the Board of Commissioners of Delaware County, what compensation they shall allow supervisors of roads for making their returns.

[APPROVED FEBRUARY 11, 1848.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be discretionary with the board of commissioners in and for the county of Delaware, what compensation they shall allow the supervisors of said county for making their returns, keeping in view the distance each may reside from the county seat, which compensation shall in no case exceed one dollar and twenty-five cents each, per day.

SEC. 2. All laws and parts of laws contravening the provisions of this act are hereby repealed. And the secretary of state be required to forward to the county board of Delaware a certified copy of the above act immediately.

SEC. 3. This act to be in full force from and after its passage.

CHAPTER XII.

An Act changing the venue in the case of the State of Indiana against Willis M. Miller, from the county of Daviess, in the tenth judicial circuit of the State of Indiana, to Greene county, in the same judicial circuit.

[APPROVED FEBRUARY 14, 1848.]

WHEREAS, Willis M. Miller, of Daviess county, Indiana, now stands indicted for the murder of his wife, Jane Miller, and which said indictment is now pending in the Daviess circuit court: AND, WHEREAS, ALSO, The said Miller has, by his petition, verified by his affidavit, prayed a change of venue from the county and circuit, in which said indictment is pending, owing to the prejudice and feeling prevailing against him, the said Miller, in said county, and the refusal of the said Daviess circuit court, at the last term thereof, to grant a change of venue in said cause upon his application made therefor; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the venue in the above case of the State of Indiana against Willis M. Miller, is hereby changed from the county of Daviess, in the tenth judicial circuit of Indiana, to the county of Greene in the same judicial circuit of said state.

SEC. 2. *Be it further enacted,* That it shall hereby be the duty of the sheriff, or other officer of the said county of Daviess, in whose custody the said Miller now is, as also the sheriff of the county of Greene, to which the venue by this act is changed, to be governed in all respects as they now are in like cases of venue granted by the court, and provided for by the ninety-third section of the fifty-fourth chapter of the Revised Statutes, 1843, regulating the change of venue in criminal cases.

SEC. 3. *Be it also enacted,* That it shall be the duty of the court to which said venue is granted and changed by this act, to take cognizance of said cause, and to proceed therein to trial, judgment, and execution, in all respects as if the indictment herein had been found and returned by a grand jury empannelled in such court.

SEC. 4. This act to take effect and be in force from and after its passage; and the secretary of state shall forthwith transmit copies of this act to the several clerks of the counties of Daviess and Greene.

CHAPTER XIII.

An Act in relation to the fees of the Treasurer of Owen County, in certain cases.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall not be lawful hereafter for the treasurer of Owen county to receive any compensation out of the county treasury for collecting the costs of assessor, but shall be entitled to his per centage out of said costs when collected by him.

SEC. 2. It shall not be lawful hereafter for said treasurer to receive any compensation from said county treasury for collecting or receiving any redemption money or lands sold for taxes, but shall be entitled to his per centage out of said redemption money.

SEC. 3. This act to take effect and be in force from and after its passage, and a copy thereof shall have been filed in the clerk's office of said county, and it shall be the duty of the secretary of state to forward a copy of this act to the clerk of said county immediately.

CHAPTER XIV.

An Act lopping off all the extra allowance to the Clerk and Sheriff of Delaware County, as now allowed by the Board of the same.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the clerk and sheriff of Delaware county shall not be allowed any compensation whatever for extra services, by the board of commissioners of said county.

SEC. 2. All laws and parts of laws contravening the provisions of this act are hereby repealed.

SEC. 3. This act to be in force from and after its passage; and it is made the duty of the secretary of state to forward to the board of commissioners of Delaware county a certified copy of the same.

CHAPTER XV.

An Act to legalize the acts of the President and Trustees of the town of Rising Sun, in Ohio County, State of Indiana.

[APPROVED FEBRUARY 12, 1848.]

WHEREAS, The citizens of the town of Rising Sun, in Ohio county, State of Indiana, did, in the year 1817, by virtue of the laws of said state, then in existence, undertake and attempt to organize a lawful incorporation of said town; AND WHEREAS, Regular and proper corporate authorities have from time to time from such organization up to the present time been chosen by the citizens of said town by authority of the laws aforesaid, and subsequent acts passed by the General Assembly of said State amendatory and in aid thereof; AND WHEREAS, Ordinances and by-laws have from time to time been passed by said corporate authorities, taxes levied, moneys collected and expended, contracts entered into, improvements made, and any and all matters and things necessary and proper to be done by any town in her corporate capacity, have been done; AND WHEREAS, Doubts have arisen as to whether said incorporation was ever properly organized according to the strict requirements of the statutes and laws aforesaid; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all acts done or performed by the president and trustees of the town of Rising Sun, in Ohio county, State of Indiana, in their official capacity, all taxes levied, all moneys collected, disbursed, or paid out, all contracts made and entered into, and all and every thing done or performed by said president and trustees, or any of them in their official capacity, and any and all acts and things done or performed by any officer or officers, agent or agents, or other person or persons whomsoever acting under and by the authority of said president and trustees, or under and by the authority of any ordinance or by-law passed by said president and trustees; and all ordinances and by-laws and parts thereof by the said president and trustees passed, and all elections held for and on behalf of said corporation, be and the same are hereby legalized and declared to be good and valid to all intents and purposes as though all and everything heretofore done in regard to and touching said incorporation, had been done in strict conformity to law.

SEC. 2. That this act shall be deemed and taken to be a public act, and shall be so construed in all courts of justice, and shall be in force from and after its passage and publication in the Indiana Blade, which publication shall be at the expense of the citizens of said town of Rising Sun; and it is hereby made the duty of the secretary of state to furnish a copy of this act for publication.

CHAPTER XVI.

An act authorizing the board of Madison county commissioners to do a certain act.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall and may be lawful for the board of commissioners of Madison county in this state, to enter on the order book of said board, a remission or release of all or any part of said county's interest in a judgment, rendered in favor of the State of Indiana, on the relation of the auditor of said county, against Wm. Young, Joseph Pence, Adam Pence, Evan Pugh, Solomon Nelson, Garret McAlister, and George Vinyard, in the Madison circuit court, which entry, when so made in the order book of said board, shall be in full satisfaction of the amount so remitted or released to said judgment debtors. And it is hereby made the duty of the auditor of said county to certify the amount so remitted or released to the clerk of the circuit court of said county, whose duty it shall be to

enter the same on the judgment docket of said court to the credit of said judgment defendants, who shall be forever thereafter released from the payment to said county of said judgment, or of so much thereof as shall have been so remitted.

SEC. 2. This act to take effect and be in force from and after its passage; and it is hereby made the duty of the secretary of state to forward a certified copy of this act to the auditor of Madison county without delay.

CHAPTER XVII.

An act in relation to school funds in the county of Daviess.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board of commissioners of the county of Daviess be and they are hereby authorized to apportion as principal the proceeds of a certain judgment against the sureties of James Carnahan, late school commissioner of said county, among the several townships of said county, in such manner as said board, in their discretion, may deem equitable.

SEC. 2. This act to be in force from and after its passage, and it is made the duty of the secretary of state to transmit a copy of this act to the auditor of said county of Daviess.

CHAPTER XVIII.

An act to authorize John G. Johnson, of Owen county, to correct a mistake in a certain deed

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John G. Johnson, of Owen county, Indiana, be and he is hereby authorized to correct a mistake made in a deed conveying a certain tract of land to George W. Cunduff, of said county and state.

SEC. 2. The said John G. Johnson is hereby authorized to make

a deed of conveyance to Merrell D. Conduff, the heir of George W. Conduff aforesaid, to the north-west quarter of the north-west quarter of section No. 25, in township No. 11 north, of range 3 west, containing 40 acres, more or less; and when the said Johnson shall have made a deed as provided in this act, then the deed heretofore made by him to said George W. Cunduff, conveying the south-east quarter of the north-west quarter of section, township, and range above mentioned, shall be null and void.

SEC. 3. This act to take effect and be in force from and after its passage, and a copy hereof shall have been filed in the clerk's office of said county; and it is made the duty of the secretary of state to forward a copy of this act to the clerk of Owen county immediately.

CHAPTER XIX.

An Act for the relief of Thomas M. Gibson and others.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the auditor of state be, and he is hereby authorized and directed to issue his warrant on the treasurer of state, in favor of Thomas M. Gibson of the county of Martin; [for] the sum of one hundred and ten dollars, being the amount advanced by the said Gibson towards defraying the expenses and charges incurred in the apprehension of Willis M. Miller, a fugitive from justice from this State.

SEC. 2. *Be it further enacted*, That the said auditor be, and he is hereby also authorized and directed, to issue his warrant on the said treasurer of state, in favor of John Vantrees of the county of Daviess, for the further sum of one hundred dollars and twenty cents, to be by him paid and distributed among the several persons who contributed certain sums of money to be paid, and which were paid to the captors of the said Willis M. Miller, and it is hereby made the duty of said Vantrees, if any part of the sum by this section appropriated, shall not be claimed within three months, by the persons contributing as aforesaid, to pay the same into the county treasury, and the same shall be passed to the credit of the state treasury, and paid into the same, by the treasurer of said county.

SEC. 3. This act to be in force from and after its passage, and a copy thereof be forthwith transmitted to the auditor of the county of Daviess.

CHAPTER XX.

An act to authorize the board of commissioners of the county of Grant to order an election for an additional justice of the peace in Centre township, and for other purpose.

[APPROVED FEBRUARY 14, 1848.]

SECTION. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of commissioners in and for the county of Grant and state aforesaid, be and they are hereby authorized at their next June term, or at any regular term thereafter, to order and direct that an additional justice of the peace be elected in the township of Centre and county aforesaid, who shall hold his office in the town of Jonesboro.

SEC. 2. All acts and proceedings of the board of commissioners of said county, and of any justice of the peace who may have been elected under any order of said board to serve as such in the said town of Jonesboro, be and the same are hereby legalized.

SEC. 3. This act to take effect and be in force from and after its passage, and it is hereby made the duty of the secretary of state to cause to be filed in the auditor's office of Grant county a certified copy of this act.

CHAPTER XXI.

An act to change a State road in the counties of Huntington and Wells.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Eli Mitchell of the county of Huntington and Joseph Logan and Samuel B. Caley of the county of Wells, be and they are hereby appointed commissioners to change the Fort Wayne and Indianapolis state road as follows; beginning at the ninety-five mile tree, thence north so as to leave the ninety six mile tree to the east about sixty five rods, thence northeast to the section line, between sections four and nine, township twenty-eight north of range eleven east, thence east on said section line to the corner of said sections, thence north on the section line dividing sections three and four until it intersects the old road as at present located.

SEC. 2. The said commissioners or any two of them shall meet at the place of beginning on the first Monday of May next, or as soon thereafter as may be convenient for them so to do, and after

having taken an oath or affirmation faithfully and impartially to discharge the duties assigned them, shall proceed to view and locate said road agreeably to the points and corners designated in the first section of this act.

SEC. 3. The said commissioners shall, within thirty days after locating said road as aforesaid, report to the county auditor of the county of Wells, so much of said road as may be located therein, and also to the auditor of Huntington county, if any of said road is in said county, which report shall be in writing, and by said auditor laid before the board of commissioners for said county, at their next session thereafter, and said board shall cause the said report when so made to be recorded, and said road to be opened and repaired as other roads and highways, and make such allowance to the said locating commissioners and others by them necessarily employed, to be paid out of the treasury of said counties according to the distance said road is changed in them.

SEC. 4. This act to take effect and be in force from and after its passage, and it is hereby made the duty of the secretary of state to cause a certified copy of this act to be filed in the office of the county auditor of Wells county.

CHAPTER XXII.

An Act for the relief of Abraham Perkins, late collector of Daviess county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of commissioners of Daviess county be and they are hereby authorized to receive a further delinquent list from Abraham Perkins, late collector of the county aforesaid, which he is hereby authorized to present; and, in their sound discretion, to allow him a credit for the same or so much therefor as justice may require.

SEC. 2. This act to be in force from and after its passage, and the secretary of state shall forthwith forward to the auditor of said county, a copy of this act.

CHAPTER XXIII.

An Act to revive an act for the location of a state road in the counties of Dubois and Martin.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled an act for the location of a State road in the counties of Dubois and Martin, approved Jan. 27th 1847, be and the same is hereby revived and declared in full force, and extended so that it shall be the duty of the said commissioners (except Shilo Polston whose name is hereby stricken out, and the name of John Caves inserted) or a majority of them to meet at Hillsboro, in Martin county, on or before the first Monday in September next and proceed to view and locate said road in the manner prescribed by said entitled act.

SEC. 2. This act shall be in force from and after its passage, and it is hereby made the duty of the secretary of state to transmit a copy of this act duly authenticated under the seal of the state to the clerks of the counties of Dubois and Martin.

CHAPTER XXIV.

An Act levying a street tax on the inhabitants of the town of Marion, and its additions.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be levied and collected on each one hundred dollars' valuation of real property with the improvements thereon, in the town of Marion and its additions thereto, in the county of Grant, for the purpose of improving the streets, alleys and side-walks of said town of Marion and additions; which sum may be worked out at the rate of seventy-five cents per day under the direction and care of a supervisor to be by the qualified voters residing therein, elected by ballot at the Spring election in each year, namely on the first Monday of April, and who shall reside within the limits of said town, and hold his office for the term of one year and until his successor is chosen and qualified; and receive the same pay as do other supervisors, to be paid out of the funds arising under the provisions of this act.

SEC. 2. It shall be the duty of the auditor of said county of Grant each year, to make out from the assessment and valuation

of all the real property and improvements thereon, as returned and filed in his office by the proper officers of said county, the amount of taxes contemplated in the first section of this act chargeable to each individual, and place the same in the tax duplicate for said county in a separate column in the same way and manner that he does the taxes for state and county purposes; which shall be by the treasurer of said county collected as are other taxes and paid over to the person authorized to be elected under the preceding section, and by him expended to the best advantage for the improvement of the streets, alleys and side-walks aforesaid.

SEC. 3. The said supervisor, before he enters upon the discharge of his duties, shall give bond in the penalty of five hundred dollars with good freehold surety "to the auditor of Grant county for the use and benefit of the inhabitants of the town of Marion and additions thereto," upon which suit may be brought in the name of the auditor as above for any and all breaches of the same.

SEC. 4. In addition to the tax above authorized to be levied and collected, each able-bodied male inhabitant of the town of Marion, and any of its additions, over the age of twenty-one years and under fifty years, shall be required to work two days in each year, on the streets, alleys, and side-walks of said town, under the direction of the supervisor to be chosen by virtue of this act, on or before the 1st Monday in October.

SEC. 5. The law now in force regulating the working of roads and highways shall govern the supervisor herein provided in the discharge of all the duties which shall devolve upon [him,] and the said supervisor is hereby authorized and directed to enforce the compliance of the provisions of this act in the same way, and under the laws that other supervisors of roads and highways are. Provided that the labor and expenditures shall be distributed as equally as possible throughout the whole town.

SEC. 6. This act to take effect and be in force from and after its passage; and it is hereby made the duty of the secretary of state to cause a certified copy of this act to be filed in the auditor's office of Grant county.

CHAPTER XXV.

An Act to incorporate the Madison and Brownstown Turnpike Road Company, by way of Kent, in the county of Jefferson, and Wooster, in the county of Scott.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Richard Hubbard, Nathan Robinson, Levi Ramsey, John Green, John Brazelton, Thomas Driden, of Jefferson county, Stephen Rice, Alfred Hays, and Samuel Davis, of Scott county, and Abraham Love, Joseph Fullbright, and James Ireland, sen., of Jackson county, and their successors in office, duly elected as hereinafter directed, are hereby constituted a body corporate and politic by the name and style of the Madison and Brownstown Turnpike Road Company, and by such name and style shall be able and capable in law and equity to sue and be sued, to plead and be impleaded, and answer and be answered unto, in any and all courts whatever, to make and use a common seal, and the same to alter at pleasure, and shall be able to make all contracts necessary to the object of said company, and enforce necessary by-laws, rules, and regulations to enable them to carry into effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the constitution and laws of this state.

SEC. 2. The capital stock of said company shall be seventy-five thousand dollars, divided into shares of fifty dollars each, with power to increase the capital stock if necessary to accomplish the object herein contemplated.

SEC. 3. The directors in this act named, or a majority of them, shall meet at such time and place as they may agree on, and organize said corporation by electing one of their body president, and after such organization, any five of such board shall be a quorum to do business.

SEC. 4. Such corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other persons and officers necessary to carry into effect this act. They shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and all orders of what nature soever of said board, which journal and proceedings shall, from time to time, be signed by the president of such board; they may sit on their own adjournments, or on a call of the president, and when the president is absent at any meeting of such board they may appoint a president *pro tempore*, and they may fill all vacancies that may occur in their body.

SEC. 5. Such corporation shall cause books to be opened for the subscription to the capital stock aforesaid, at such times and at such places as they may order, due notice of which shall be given in the newspapers printed and published in the said counties of Jefferson, Scott, and Jackson, in each of which books the

following entry shall be made: The undersigned promise to pay the sum of fifty dollars for each and every share of stock set opposite to our names, in such manner, and at such times, and in such proportions as the president and directors of the Madison and Brownstown Turnpike Road Company shall direct. Witness our hands this — day of —, 18 .

SEC. 6. It shall be lawful for all persons of lawful age, and for the agent of any corporation, to subscribe for any amount of the capital stock aforesaid; and the said corporation may, by agent duly appointed, offer for sale in any other state any amount of stock upon such terms and conditions as may be thought advisable by said board; and they shall have power, on their own credit, to borrow money upon such terms as may be agreed upon by the parties of such contract. The corporation shall have power to require such sums of money to be paid at the time of subscribing, not exceeding ten dollars on each share subscribed, as they may think proper; but the amount required as last aforesaid shall be made known at the notice for opening books as aforesaid, and all future payments on the stock subscribed shall be under the direction of the board aforesaid.

SEC. 7. As soon as one hundred shares of such stock is subscribed, and ten dollars on each share are paid as aforesaid, it shall be the duty of the corporation to give three weeks' notice thereof in some newspapers aforesaid, and in such notice appoint a time and place for such stockholders to meet and elect thirteen directors, who shall be stockholders and citizens of this state, and which election shall be by ballot, and conducted under the superintendence of an inspector, two judges, and one clerk, appointed by the stockholders present at such meeting, and the persons having the highest number of votes shall be declared duly elected; in all elections each share, from one to five, shall entitle the holder to one vote, and every five shares additional to one vote only, to be given by the person or persons owning the same, or by one of any partners, or by the husband, father, administrator, or executor, trustee, or guardian, or by the agent of any corporation; and any person who may have a right to vote may vote by proxy.

SEC. 8. It shall be the duty of the directors, elected as above, and those elected at all subsequent elections, to elect one of their own body to be president; the president and directors thus elected shall continue in office until the next annual election, and until their successors are elected and qualified.

SEC. 9. All the elections after the first shall be on the first Mondays of January annually, under the direction of the stockholders present, of which election notice shall be given; but should no election be held on the day appointed by this act, or by the directors of the first election, it shall be lawful to hold the election on any other day.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held. They shall be signed by

the president and countersigned by the clerk; the stock shall be transferred on the books of the corporation only, personally or by agent, or attorney, or by the administrator, executor, trustee or guardian; but such stock shall be at all times holden by the corporation for any dues from the holder thereof to the corporation, or for any sums that may hereafter become due, on a contract made, prior to such transfer.

SEC. 11. The corporation shall have power, to call for such portions of the stock subscribed, not exceeding fifteen per centum, every six months as they may think proper, to be paid at such time and place as they may designate, by giving sixty days' notice thereof, in the newspapers printed and published in the counties of Jefferson and Jackson, or by giving written notice to the stockholders, in which shall be specified the amount demanded on each share, and the time and place of payment; and if any stockholder shall fail or refuse to pay such requisition within ten days, after the time named for such payment, the corporation may bring suit against such delinquent, for the amount due and called for, in any court of competent jurisdiction; and recover the amount, with interest thereon at the rate of six per centum per annum; and if the amount cannot [be made] on execution, or if such delinquent is out of the state, then the corporation may, by an order on their books, declare such stock forfeited to the corporation, with whatever amount may be paid thereon; and no such delinquent, after the forfeiture of his stock, or before such forfeiture and is in arrear as aforesaid, shall have the right to vote for directors, or receive any dividend of his, her, or their stock, until such corporation be satisfied on account of such delinquency. The corporation shall require of all officers, and others in their employ, bonds with such security as they may think proper for the faithful performance of their respective duties.

SEC. 12. The corporation, by themselves or agents, shall have power to examine, survey, locate and mark a turnpike road, from Madison, in the county of Jefferson, by way of Kent in said county, and Wooster in Scott county, to Brownstown in the county of Jackson; running the same on the best ground for the interest of the company, and the convenience of the public; and the said road shall be forty feet in width.

SEC. 13. And for the purpose of making such examination and location, it shall be lawful for the corporation, by their agents or persons in their employ, to enter upon any land, to make surveys and estimates, for the purpose of searching for stone, wood, gravel, or other materials necessary for the construction of said road; but no stone, gravel, or other materials shall be taken from off any lands, without the consent of the owners thereof, until the amount of the compensation therefor shall have been ascertained and paid.

SEC. 14. It shall be lawful for such corporation, either before or after the location of said road, to obtain from any person or persons through whose lands the same may run, a relinquishment of said land as will be necessary for the construction of said

road; also the stone, gravel, wood, or other materials as aforesaid; and may contract for stone, gravel, and other materials necessary for the same, that may be obtained from any lands near thereto; to receive by donations, gift, grants or bequests, lands, moneys, labor, property, stone, gravel, wood or other materials for the benefit of said corporation; and all such contracts, relinquishments and donations, made and entered into in writing, by any person or persons able in law to contract, and for the benefit of said corporation, may and shall be made effectual for the purposes aforesaid, by action in law or equity, in any court having competent jurisdiction, *Provided* that all such contracts, relinquishments, gifts, grants, bequests, &c. shall be made in writing by the parties.

SEC. 15. That when said company shall have procured the right of way, as herein provided, they shall be seized in fee simple of the right to such land, shall have the sole use and occupation of the same for the purposes aforesaid; and no person, body corporate or politic, shall in any way interfere with, molest, injure or disturb any of the rights and privileges granted.

SEC. 16. The company shall commence the construction of said road within five years from the passage of this act, and finish the same within ten years thereafter: *Provided*, that if five miles of said road shall be completed, within the time aforesaid, this charter shall not be forfeited, as to that part of the road so completed, nor any part that may be completed within ten years.

SEC. 17. The said company shall cause said road to be opened not exceeding forty feet wide, at least sixteen feet of which width, shall be artificial road, composed of stone or gravel, well compact together, in such manner as to secure a firm, substantial and even road, rising in the middle with a gradual curve; and shall maintain and keep the same in good repair; and in no case shall the ascent in said road be greater than an elevation of four degrees.

SEC. 18. If said road, after the completion thereof, shall be suffered to go to decay, or be impassable for one year, unless when the same is repairing, this charter shall be considered as forfeited.

SEC. 19. So soon as said corporation shall have completed said road, or any five miles thereof, agreeably to the provisions of this act, they may erect a gate or gates at suitable distances apart, not less than five miles, and demand and receive of persons traveling on said road the tolls allowed by this act: *Provided*, That the company shall have power to erect quarter gates, if to them it shall seem necessary for the protection of the rights of said company.

SEC. 20. The following shall be the rates of tolls for each and every ten miles of said road; and the same proportion for a greater or less distance, *to wit*; For every four wheeled carriage, wagon or other vehicle drawn by one horse or other animal, a sum not exceeding fifteen cents; for every horse or other animal in addition five cents. For every cart, chaise, or other two wheeled carriage or vehicle drawn by one horse or other animal not exceeding ten cents, for every horse or other animal in addition five cents. For

every sled or sleigh drawn by one horse or other animal five cents, for every horse or other animal in addition five cents. For every coach, chariot, or other four wheeled pleasure carriage, drawn by one horse or other animal, not exceeding twenty cents, for every horse or other additional animal five cents. For every horse and rider, not exceeding ten cents. For every horse, mule, or ass, six months old or upwards, led or drove, not exceeding three cents. For every head of neat cattle, six months old and upwards one cent. For every hog and sheep one-half cent. *Provided*, That all persons going to or returning from funerals, public worship, or militia musters, shall pass said road free of toll.

SEC. 21. If any person or persons using said road shall with intent to defraud said company, or evade the payment of toll, pass through any private bars or gates, or along any other ground near to any turnpike-gate, which shall [be] enclosed pursuant to this act, or shall practice any fraudulent means, with the intent to evade or lessen the payment of any such tolls, or if any person shall take another off such road with intent to defraud said corporation, each and every person concerned in such fraudulent transaction, shall for every such offence, forfeit and pay to said corporation, the sum of five dollars, without any stay of execution, to be recovered with costs of suit, in an action of debt at the suit of the corporation, before any justice of the peace of the county or counties, through which said road passes. *Provided*, That nothing in this act shall be so construed as to prevent persons residing on said road from passing thereon about their premises, for common and ordinary business.

SEC. 22. The company shall put a stone at the end of each mile, with the number of miles from each extremity fairly cut or painted thereon; and also in a conspicuous place near each gate, shall be placed a board, with the rates of toll, and other conditions of passage, fairly painted thereon.

SEC. 23. Any person wilfully or maliciously destroying, defacing, or removing any guide board, mile post or stone, or list of rates of toll erected on said road, shall, on conviction thereof before any justice of the peace, forfeit and pay any sum not exceeding twenty dollars, to be recovered with costs of suit in an action on the case, at the suit, and for the use of the corporation.

SEC. 24. If any toll-gatherer on said road, shall unreasonably detain any passenger, after the toll has been paid or tendered, or shall demand or receive greater toll, than is by this act allowed, he shall, for every such offence forfeit and pay a sum not exceeding ten dollars, to be [recovered] before any justice of the peace having competent jurisdiction, within twenty days after the occurrence.

SEC. 25. The corporation shall cause to be kept a fair account of the whole expenses of repairing and making said road, or any section thereof, with all incidental expenses, and also a fair account of the tolls received, and the books of such corporation shall always be kept open for the inspection of any stockholder or creditors

of said company, and the said company may at any time dispose of the stock to the state or counties through which it passes, for the money actually paid in, or expended about such work.

SEC. 26. It shall be lawful for the county commissioners of Jefferson, Scott and Jackson counties for, and on behalf of their respective counties, to authorize by an order as much of the stock to be taken, as they may think proper.

SEC. 27. The stockholders in said corporation shall be liable in a just ratio or proportion of their amount of stock, held or subscribed for, all debts incurred or created during their possession of said stock, and in case of sale or transfer of said stock from the original subscription, it shall not release the original subscriber in his just proportion from any debt or debts incurred or created during his, her, or their possession of said stock.

SEC. 28. This act to take effect and be in force from and after its passage.

CHAPTER XXVI.

An Act to authorize the trustees of school district No. 1, in town 37, north, range 5 east, in Elkhart county, to raise an additional tax.

[APPROVED FEBRUARY 14 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the trustees of school district No. 1, in town 37 north, range 5 east, in Elkhart county, be and they are hereby authorized to levy and collect a tax sufficient to raise any sum not exceeding three hundred dollars, for the purpose of paying for a school house already built in said district, which tax is to be levied and collected according to the laws now in force for levying and collecting taxes for like purposes.

SEC. 2. This act to take effect and be in force from and after its publication in the Indiana State Sentinel.

CHAPTER XXVII.

An Act to authorize Samuel S. Millikin to build a mill dam across the Salamonias river in Wells county.

[APPROVED DECEMBER 17, 1847.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Samuel S. Millikin, of the county of Wells, in the State of Indiana, be and he is hereby authorized and empowered to erect, maintain, keep up and in repair a mill dam across the Salamonias river in the county of Wells, with sufficient slopes or locks for the free passage of all boats, vessels, and lumber that may desire to navigate said river, about two miles down the same from the line dividing the counties of Blackford and Wells at the residence of the said Millikin.

SEC. 2. This act to take effect and be in force from and after its passage.

CHAPTER XXVIII.

An Act to incorporate the Brownstown and Scipio Railroad company.

[APPROVED, FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John F. Carr, Walter Benton, Richard Beam, Jesse B. Durham, John J. Kester, Meedy W. Shields, Jacob Wells, Jeremiah Tanner, Solomon Ruddick, Anderson Franklin, James Blair, David Bowman, William Bell, Andrew Robinson, John R. Hamilton, Charles L. Wayman, Clark B. Johnson, Benj. F. Crenshaw, and Joseph E. Stillwell, and George H. Murphy, of the county of Jackson, and James B. Curtis, Thomas Wilkerson, Adams Greene, and Hiram Willis of the county of Jennings, and their successors in office, be and they are hereby declared a body corporate and politic, by the name and style of the president and directors of the Brownstown and Scipio railroad company, and shall be capable in law and equity to sue and be sued, plead and be impleaded, answer and be answered unto in any and all courts whatever; to make and use a common seal, and the same to alter and change at pleasure; and shall be and are hereby authorized and empowered to make contracts, and make and enforce the necessary laws, rules and regulations to enable them to carry into effect the provisions of this act, and the ob-

jects contemplated by the same, not inconsistent with the laws and constitution of this state.

SEC. 2. The capital stock of said corporation shall be fifty thousand dollars, divided into shares of fifty dollars each, with power on the part of said corporation to increase the capital stock if necessary to complete and accomplish the objects herein contemplated.

SEC. 3. The directors in this act named, or a majority of them, shall meet at such time and place as they may agree on, and organize said corporation by electing one of their body president, and after such organization any four of them shall be a quorum to do business.

SEC. 4. The said corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other persons and officers necessary to carry into effect this act: they shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and all orders for the payment of such allowances as may be made to their officers and all others in their employment, which journal and proceedings shall from time to time be signed by the president; they may sit on their own adjournments, or meet on the call of their president; when the president is absent from the meeting, they shall appoint one of their number president *pro tempore*, and they shall fill all vacancies that may happen in their own body.

SEC. 5. Subscriptions to the capital stock of said company may be made either in money, labor, real estate, or necessary and proper materials for the construction of said road, and all subscriptions which are to be paid in labor or materials shall be paid to and received by said company at their cash value, to be ascertained by appraisers appointed for that purpose by said company; said corporation shall cause books to be opened at such times and places as they may choose, due notice of which shall be given in some public newspaper printed and published in the vicinity of said road, in each of which books the following entry shall be made:

"We, the undersigned, promise to pay the sum of fifty dollars for each share of stock set opposite to our respective names, in such manner and proportion, and at such times as the president and directors of the Brownstown and Scipio railroad company may direct. Witness our hands, this — day of —, 18—"

SEC. 6. It shall be lawful for all persons of lawful age, or for any corporate body in the United States, by their constituted officers or agents, to subscribe for any amount of the capital stock of said railroad company, and the said corporation may, by their officers or authorized agent or agents, offer for sale in any of the states of the United States, any amount of their stock upon such terms and conditions as may be thought advisable; and said corporation shall have power to borrow money, (on their own credit) or by pledging the real estate subscribed as stock, or both, upon such terms as may be agreed upon by the parties: the said corporation may require

such sums of money to be paid at the time of subscribing for stock, not exceeding five dollars on each share, as they may think proper; but the amount required to be paid on each share subscribed for shall be made known in the notice for opening the books, and any future instalments or payments on stock shall be under the control of and regulated by the said company, subject to the restrictions hereinafter mentioned.

SEC. 7. As soon as the capital stock is subscribed for, and the amount required in said notice to be paid on each share at the time of subscription shall have been paid in, it shall be the duty of said corporation to give three weeks' notice thereof in some public newspaper or newspapers near said railroad, and in said notice appoint a time and place for said stockholders to meet and elect nine persons, who shall be stockholders and citizens of this state, and which election shall be by ballot, and be conducted under the superintendence of an inspector and two judges, selected by a majority of the stockholders present at such election, and the nine persons receiving the highest number of votes shall be declared duly elected. In all elections each share shall entitle the owner thereof to one vote, and any person or persons being the owner or owners of more than one share of said stock shall be entitled to a vote for each share; the vote or votes in all cases to be given by the owner or owners thereof by him, her, or themselves, or by their agents, proxies, or legal representative.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to elect one of their own body president. The president and directors thus elected shall continue in office until the next annual election, and until their successors are elected and qualified.

SEC. 9. All elections after the first shall be held on the first Monday in January in each year, to be conducted in all respects as specified in section seven of this act: three weeks notice in some public newspaper near the said road shall be given by the said board, of the time and place of holding such elections; and the directors elected at any such annual election shall hold their offices for one year, and until their successors are elected and qualified; but should no election be held on said first Monday in January in any year, it shall be lawful to hold an election on some other day, to be appointed by said board, of which notice shall be given as above in this section specified, and to be conducted in the same manner as is provided for in section seven; and the directors thus elected shall hold their offices until the next annual election, and until their successors are elected and qualified.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held. Such certificates shall be signed by the president and countersigned by the clerk of said company. The stock shall be transferred on the book of the corporation only by the person or persons owning the same, in person, or by their legally constituted agent or agents, attorney or at-

torneys, or by their legal representatives, trustees or guardians; and such stock shall be at all times holden for any dues from the owners thereof to the corporation, or for any sums that may thereafter become due, or any contract made with said corporation prior to such transfer.

SEC. 11. The said corporation shall have power to call for such portion of the stock subscribed for (not exceeding fifteen per centum every six months) as they may think proper, to be paid at such time and place as they may designate, by giving sixty days' notice thereof in some newspaper near the said road, or by giving to the stockholders written notice, in which shall be specified the amount called for and demanded on each share, and the time and place of payment, and if any stockholders shall fail, neglect, or refuse to pay the sum so called for on his, her, or their stock within ten days after the time named for such payment in said notice, the corporation may bring suit against such delinquent for the amount due and called for, in any court having jurisdiction, and recover the amount so called for and unpaid, together with interest from the time of such failure, neglect, or refusal, with costs, and the evidence to establish such claim of the corporation shall be the order in the journal of the proceedings of said corporation for calling for the installment on the stock, and proof that the notice above specified has been given, and if the amount so recovered against any such delinquent cannot be made on execution, or if such delinquent is out of the State, then the corporation may, by an order on their journal of proceedings, declare such stock and all that may before have been paid thereon, forfeited to said corporation; and no delinquent, after the failure, neglect, or refusal aforesaid, and before the stock shall be declared forfeited to the corporation, shall have the right to vote for directors, or receive any divisions on his, her, or their stock, until the corporation is fully paid and satisfied; and should any such delinquent or delinquents be a director or directors in said corporation, his or their offices of director or directors may be, by the balance of said board declared vacated, and they may proceed to fill, from the qualified stockholders in said corporation, such vacancy or vacancies in said board of directors, and the person or persons so appointed shall hold their office or offices until the next annual election, and until their successors are elected and qualified. The corporation shall require from all officers and others in their employ, bonds with such security as they may think proper, for the faithful performance of their respective duties or undertakings.

SEC. 12. The said corporation shall have power, by themselves or agents, to examine and survey and locate a route, and make and construct on such route a railroad from some convenient point in or near the town of Brownstown, in Jackson county, to some convenient point at or near the depot of the Madison and Indianapolis railroad company in the town of Scipio, in the county of Jennings, Indiana. The commencement of said road shall be in or near said town of Brownstown, but the particular point of commencement

shall be designated and established by the board of directors next succeeding those in this act mentioned, and the terminating point of said railroad route shall be designated and settled by the same board of directors; and when said board shall have designated and settled upon the commencing and terminating points, they shall record the same upon the journal of proceedings of said board, which shall preclude the said corporation from ever designating or fixing any other points of commencement or termination; and when said points of commencement or termination shall have been designated and settled as before mentioned, the said corporation shall have power, and they are hereby authorized, by themselves or agents, to examine and survey and locate a railroad route from such commencing to such terminating points, on the most suitable ground and such as will be most conducive to the public good and the interest of said corporation, and to build and construct a railroad for such motive power as may be determined on by said corporation. *Provided however,* That the said railroad route shall not be located on any state or county road without the said corporation first having obtained permission so to do from the board of county commissioners of the county in which a state or county road is sought to be used, and which permission when once given and entered on the order book of said commissioners, shall be irrevocable during the existence of this corporation; *Provided,* said corporation, before asking for the use of said state or county road, shall give three weeks' notice in some newspaper, printed in the county where such application is to be made, if any there be, if not, by written notices in three of the most public places in said county.

SEC. 13. And for the purpose of making such examination and location of said railroad route, it shall be lawful for said corporation and their agents, and persons in their employ, to enter upon any land to make surveys and estimates, and for the purpose of searching for stone, wood, or other materials necessary for the construction of said railroad; but no stone, or wood, or other materials shall be taken away from any land without the consent of the owner thereof, or until the amount of compensation therefor has been ascertained and paid.

SEC. 14. It shall be lawful for said corporation either before or after the location of said railroad, to obtain from any person or persons, through whose lands said road may run, a relinquishment of so much land as may be necessary for the construction of said road; also the stone, timber and other materials, that may be obtained on said route, and may contract for any stone, timber, or other materials, on any land near to said road, for the benefit of said corporation, and said corporation may receive by gift, grant, donation or bequests, made and entered into in writing, by any person capable in law of contracting, made in consideration of said road, and for the benefit of said corporation, lands, money, labor, stone, timber, or any other kind of property; and all such gifts, grants, donations or bequests, shall be binding and obligatory, and the said corporation

shall have their action at law, or in equity to compel a compliance therewith; *Provided,* That no such contract, relinquishment, gifts, grants, donations or bequests, shall be binding and obligatory, until the same shall be in writing, and signed by the party making the same.

SEC. 15. That whenever said corporation shall have procured the right of way as herein provided, and shall have the sole use and occupation of the same for the purpose aforesaid; and no person, body politic, or corporate, shall in any way interfere with, molest, disturb, or injure said corporation in any of their rights and privileges granted.

SEC. 16. The said corporation shall commence the construction of said road within five years after the passage of this act, and shall finish the same within ten years thereafter.

SEC. 17. That the said corporation for the conveyance or transportation of passengers, or any kind of freight on said road or any portion of it, may charge such sums of money as shall best comport with the interest of said company, and shall not be considered oppressive.

SEC. 18. Any person who shall wilfully or maliciously destroy or injure any of the cars, machinery, furniture, apparatus, or other property or thing belonging or appertaining to said railroad, or shall wilfully, mischievously, or maliciously place any obstruction on said railroad, shall, on conviction thereof, by presentment or indictment, be fined in any sum not exceeding five hundred dollars, and shall moreover be liable in an action of trespass, to any such person or persons, body politic or corporate, and for any and all injuries to persons or property occasioned thereby.

SEC. 19. The said corporation shall cause to be kept a fair account of the costs of the making and repairing said road, and every section thereof and all incidental expenses, and shall also keep a fair account of any and all moneys received from the transportation of freight, mails, or other property or passengers on said road, and the books of said corporation shall always be kept open for the inspection of stockholders and creditors of said corporation.

SEC. 20. That in all cases where any person through whose land the road may run shall refuse to relinquish the same, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where such difficulty may occur, and such justice shall thereupon summon the owner of said land to appear before him on a particular day within ten days thereafter, and shall appoint twelve disinterested persons of the neighborhood, who shall, after taking an oath faithfully and impartially to assess the damages, if any, on the land; and after having taken into consideration the advantages as well as the disadvantages the road may be to the same, and shall report thereon, whether such person is entitled to damages or not, and if so, how much, and shall file such report with such justice, whereupon said justice shall enter judgment thereon, unless

for good cause shown, and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises, either with or without costs; *Provided*, That either party may at any stage of the proceedings appeal to the circuit court of the county, as in other cases, except that no appeal bond shall be required, and such court shall appoint viewers as above directed, who may report at that or the succeeding term of the court, and the judgment of the court shall be final.

SEC. 21. That this charter shall be subject to repeal upon the violation by the said corporation, of any of its provisions herein, or when its franchisers may prove oppressive to the counties through which said road shall run, or when public good may require.

SEC. 22. That the directors of said company shall be liable individually for all debts contracted by them for labor done on said road, beyond the solvent stock subscribed by said company.

SEC. 23. This act is hereby declared a public act, and shall receive a liberal construction.

SEC. 24. That in all cases when any person from whose land said corporation may wish to take materials for the construction of said road, refuses to make a donation of said materials to said corporation, or sell the same at a fair price, it shall be lawful for said corporation to have the damages assessed to such owner, in the same manner as is provided in section 20 of this act for assessing the damages for right of way, excepting the advantages of said road shall not be taken into consideration in assessing damages for materials, and upon paying the amount so assessed, or tendering the same for such materials, the corporation shall have the right to the same.

SEC. 25. This act shall be in force from and after its passage.

CHAPTER XXIX.

An Act for the relief of Collins Adams, of St. Joseph county.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the state, treasurer pay Collins Adams, of St. Joseph county, and State of Indiana, the sum of fifty dollars, out of any moneys in the treasury not otherwise appropriated, for money expended and services rendered, in serving a requisition from the governor of this state on Thomas C. Higgins and Jane Higgins, fugitives from justice from this state, and who had fled to the state of

Michigan, and for conveying said fugitives back to the said county of St. Joseph, and delivering said fugitives to the sheriff of said county.

SEC. 2. This act to take effect and be in force from and after its passage.

CHAPTER XXX.

An Act for the relief of the executors of the will of Samuel Glass, deceased, and to secure the title to purchasers of lands sold by the said executors.

[APPROVED DECEMBER 17, 1847.]

WHEREAS, It is represented to this General Assembly, that Samuel Glass, late of Scott county, Kentucky, by his last will and testament, appointed Samuel Glass and Hugh M. Glass, his sons, executors, and authorized them to sell the lands of the said decedent; which will has been duly proved and recorded in the county court of said county, and said will and record thereof have since been destroyed by fire, but have been reinstated on the records of said court, and the said executors, by virtue thereof, have sold land lying in the county of Marion, in this State. AND, WHEREAS, Doubts have arisen as to the validity of said sale: Therefore,

Be it enacted by the General Assembly of the State of Indiana, That, after recording a copy of said will, as re-instated on the records of said county court, in the office of the clerk of the probate court of said Marion county, which said clerk is authorized to do, the said executors are hereby authorized to execute the powers granted them in said will, by conveying the said lands to the purchaser or purchasers on the contract of sale already made by them, or by selling and conveying the same, and to secure the purchase money in such manner as may be agreed upon by the parties.

This act to be in force from and after its passage.

CHAPTER XXXI.

An Act to provide for electing supervisors by districts in the county of Miami.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter, at the annual elections in April, it shall not be lawful for any voter in Miami county to vote for more than one supervisor of roads in his township.

SEC. 2. If, upon counting out the votes at any of the polls in said county, any ticket shall be found with the name of more than one person voted for, for supervisor, it shall be deemed an illegal vote so far as supervisors are concerned, and shall not be counted to either of the persons voted for.

SEC. 3. Any person voting for more than one person for supervisor, or for a person not within his district, at any April election, shall, upon conviction thereof, be liable to the penalties now prescribed by law for illegal voting.

SEC. 4. The supervisors in said county may, if the interest of their districts require it, appoint one or more deputies each, and are hereby empowered to administer an oath to such deputies, faithfully and diligently to discharge their duties as such, and such deputies shall serve without compensation.

SEC. 5. All laws and parts of laws coming within the purview of this act be, and the same are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage, and publication in a public newspaper, and the filing of the same in the clerk's office of said county of Miami.

CHAPTER XXXII.

An Act for the relief of the widow and the heirs of Benjamin Inman, late of Green county, deceased.

[APPROVED FEBRUARY 15, 1848.]

WHEREAS, Benjamin Inman, late of the county of Green, and State of Indiana, deceased, was, at the time of his death, seized of certain real estate lying in said county, but at the time of his death was a foreigner, not having become a naturalized citizen of the United States, whereby the said real estate escheated to the State of Indiana; AND WHEREAS, The said Benjamin left a widow,

Dorothy Inman, by whom he had five children, viz: William Inman, Jane Inman, Richard Inman, Thomas Inman, and Benjamin Inman, all of whom are now residing in the State of Indiana, the said Dorothy having, subsequently to the death of her said husband, intermarried with one John Owens, who, by act of the General Assembly of the State of Indiana, approved January 7th, 1839, adopted the said children as his own, that they might inherit his property, and, by said act, had their names changed to William Inman Owens, Jane Inman Owens, Thomas Inman Owens, Richard Inman Owens, and Benjamin Inman Owens; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all the estate and interest of the State of Indiana, acquired by escheat in and to the real estate, in said county of Green, of which the said Benjamin Inman died seized, are hereby released to and vested in the said widow, and in his said children, William, Jane, Richard, Thomas, and Benjamin, as they would have taken the same by devise, descent, or right of dower, if the said Benjamin Inman, deceased, had been a native citizen of the United States.

SEC. 2. The said widow and said children shall take estates in said real estate of the same nature and extent, as they would have taken if they and the said Benjamin Inman, deceased, had been native citizens of the State of Indiana.

SEC. 3. This act shall be in force from and after its passage.

CHAPTER XXXIII.

An Act to provide for the selection of petit juries in the county of Warren.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty, hereafter, of the board of county commissioners of Warren county, Indiana, to select a petit jury for the circuit court in said county, in pursuance of the provisions of chapter fifty of the Revised Statutes of 1843, and of the clerk of the said circuit court to issue a venire for the said jurors, as provided in said chapter.

SEC. 2. The said board of county commissioners, at their March term of 1848, shall proceed to make selections (in manner provided in said chapter fifty) of a petit jury to serve at the March term of 1848 of the said circuit court.

SEC. 3. The clerk of the said circuit court shall, at least ten

days previous to the March term of 1848 of the said court, make out a writ containing the panel of the petit jurors selected as aforesaid, for the said term under the seal of the said circuit court, directed to the sheriff of the county, commanding him to summon said jurors to appear at the court house in said county, to attend to their duties as such jurors, at the March term of 1848, of said court.

Sec. 4. All acts and parts of acts, coming within the purview of this statute, be and the same are hereby repealed.

Sec. 5. This act to be in force from and after its passage.

CHAPTER XXXIV.

An Act to extend the jurisdiction of justices of the peace in the counties of Lake and Porter.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That from and after the first day of May, 1848, suit or action may be brought before any justice of the peace of any township in said counties, against any person who may, by written contract, agree that he may be sued in such township.

Sec. 2. All acts and parts of acts contravening the provisions of this act are hereby repealed.

Sec. 3. This act to be in force from and after its passage.

CHAPTER XXXV.

An Act relative to elections in Jackson county.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter it shall be lawful for any of the legal voters in the county of Jackson to vote in any of their adjoining townships at all general or special elections held in said county, except such elections as are held especially for township officers.

Sec. 2. All acts or parts of acts, heretofore passed, contravening the provisions of this act be and the same are hereby repealed.

Sec. 3. This act to be in force from and after its passage.

CHAPTER XXXVI.

An Act for the election of township assessors in the counties therein named.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That there shall be one assessor elected in each township by the qualified voters thereof, in each of the following counties in this state, at the expiration of the term for which the present incumbent was elected: in the counties of Delaware, Randolph, and Allen.

Sec. 2. Such assessors shall give the necessary bond before entering on the discharge of his duties, and shall hold his office for the term of two years, and until his successor is elected and qualified.

Sec. 3. Said assessors shall be governed in all respects by the law now in force prescribing the duties of county assessors, and as applicable to each township, except that they shall not make their return to the board doing county business until the third day of its June term.

Sec. 4. This act to take effect and be in force from and after its passage and publication in the "Indiana State Journal" and "Sentinel."

CHAPTER XXXVII.

An Act to encourage the growth of cranberries in the county of Allen, and for the protection of cranberry marshes.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter no person shall enter upon the lands of another, or on the public lands in the county of Allen, and gather cranberries, with intent to convert the same to his own use, without the consent of the owner or owners thereof: *Provided however*, That this act shall not extend to cases where cranberries are gathered from public lands, or the lands of non-residents of said county of Allen, after the first day of October in each year.

SEC. 2. Any person violating the provisions of the first section of this act shall be liable to an indictment, and upon conviction thereof may be fined in any sum not exceeding fifty dollars.

SEC. 3. This act shall be in force from and after its passage.

CHAPTER XXXVIII.

An Act to amend an act, entitled "An Act granting to the citizens of the town of Evansville a city charter," approved January 27, 1847,

[APPROVED FEBRUARY 4, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the common council of the city of Evansville shall have full power and authority from time to time, and as often as they may deem it expedient, to alter the size, form, and boundaries of the present wards of said city, and to subdivide the same or any of them, and make additional wards thereof, and at all times hereafter to subdivide the territory which may be within said city, and constitute thereof as many wards as said council may deem proper, and of such sizes and forms as said council may think necessary for the convenience and well being of said city, and from time to time to alter the number and boundaries thereof: *Provided*, That the size or boundaries of no ward once established shall be altered without the concurrence of two-thirds of all the councilmen of the city.

SEC. 2. The common council of said city shall have full power and authority at their discretion by ordinance, to require all votes

to be given at any city election, to be given in any one or more wards of said city, and at such place or places as the common council may from time to time appoint, and to pass and adopt all such ordinances, regulations, and orders in relation to the times and places of holding elections in said city for city officers, as said common council shall deem expedient.

SEC. 3. When any person shall fail to pay his or her taxes within the time prescribed for the payment thereof by the act to which this is an amendment, if he or she own or be charged with the taxes on several lots or portions of real estate upon which such taxes have not been paid, the collector shall advertise the whole as delinquent; but he shall, if practicable, make all the taxes charged against such person by the sale of one lot or part thereof, and sell no more lots or parts of lots than will be sufficient to pay the taxes charged against such person, together with the costs of advertising and sale.

SEC. 4. Any person using a party wall built by another person, shall be compelled to pay for one-half of such part thereof only as may be actually used in the manner specified in the forty-eighth section of the act to which this act is an amendment: *Provided*, That the height of the part so used shall be ascertained by measuring from the bottom of the wall or foundation; and if the two buildings of which said wall forms part be of equal or nearly equal height, that part of the wall which extends above the roof shall be included in estimating the height of such wall.

SEC. 5. The common council shall have power to expell and vacate the office of any mayor or councilman who shall offer or accept any bribe, or act corruptly, or attempt to induce any other member of the council to act corruptly in the discharge of his duty as a member of the common council; and also any member of the common council who shall have been convicted subsequently to his election of any crime punishable by imprisonment, and also any member of the common council who shall be directly or indirectly a party to or interested in any contract express or implied to which the common council or the city of Evansville is a party: *Provided*, That no member of the common council shall be expelled or have his office vacated as aforesaid, unless three-fourths of all the members of the common council shall concur therein, nor without being heard by himself and counsel, if he desire it, and fairly tried by the common council; and the accused shall have notice of the trial at least one week before the time fixed therefor, and he shall have the right to demand a copy of the charge or charges made against him.

SEC. 6. The mayor or president, *pro tem.*, of the common council shall have power to issue process for and compel witnesses to attend and testify upon any trial had in pursuance of this act in the same manner that justices of the peace may compel witnesses to appear and testify before them.

SEC. 7. This act shall be in force from and after its passage.

CHAPTER XXXIX.

An Act to incorporate the Connersville Hotel Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all persons who shall become stockholders pursuant to this act are hereby constituted a body corporate, by the name and style of the "Connersville Hotel Company," and by that name shall be capable of holding real estate sufficient to carry into effect the purposes of this act, and of suing and being sued in law and equity, in all courts whatever, and shall have power to establish, from time to time, such by-laws, rules, and regulations as may be found necessary for the management of said corporation.

SEC. 2. The capital stock of said company shall be thirty thousand dollars, to be divided into shares of fifty dollars.

SEC. 3. That William M. Smith, Philip Mason, Henry Goodlander, Samuel W. Parker, and William Tendall are appointed commissioners under this act, any three of whom may, as soon after the passage of this act as they may deem expedient, open books in the town of Connersville for subscriptions to the stock of said company, which books may be kept open as long as said commissioners may think proper, or until all of said stock shall be taken; and as soon as one hundred or more shares of said stock shall be subscribed for, the stockholders shall meet in the town of Connersville, at such time and place as shall be specified by said commissioners, and under their supervision, or that of any three of them, shall elect, by ballot, five directors, to serve as such for one year and until their successors shall be elected and qualified. At such election each stockholder shall be entitled to one vote for each share of stock he may hold, to be given in person or by proxy, and the five persons having the highest number of votes shall be elected. An election for directors shall be held under the foregoing regulations once in each year, at a time and place to be specified in the by-laws of the company. The said directors shall appoint one of their own body president, and shall have power to appoint a secretary and treasurer, either of their own body or not as they may choose, from whom they may require such bond and security as they shall deem expedient.

SEC. 4. The said directors shall have power to call for the payment of the stock subscribed, in such sums and at such times as may be necessary to purchase the necessary ground and erect the necessary buildings for the hotel contemplated by this act, to be paid to the treasurer of the company. If any stockholder shall refuse or neglect to pay his stock as the same shall be called for, he shall be liable to suit for the same, or the directors may, at their election, sell his stock, with all payments made on the same, to the

highest bidder, and the stock so sold shall be transferred to the purchaser thereof by the secretary of the company, on the books of the company.

SEC. 5. The stock of said company shall be transferred only on the books of the company, and the same shall be considered as personal property, and as such shall be liable to execution, and when sold by any officer shall be transferred by him to the purchaser thereof on the books of the company.

SEC. 6. The said company shall have power to erect all necessary buildings and appurtenances for a hotel, and to lease or rent the same, and to rent any rooms in the said hotel which may not be necessary as a part of it, for any other purpose; also, to hold and possess any personal property for the furnishing such buildings or any part thereof.

SEC. 7. The directors of said company shall declare such dividends from time to time on said stock as they may deem expedient, and they shall have power to effect insurances on said hotel against loss or damage by fire.

SEC. 8. In case said corporation becomes insolvent and unable to pay its debts, the stockholders shall be held individually liable for the payment thereof.

This act to be in force from and after its passage.

CHAPTER XL.

An Act to authorize the board doing county business in Orange county to dispense with a road tax.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business in and for the county of Orange, be and they are authorized, at their session in June in any year hereafter, to dispense with a tax for road purposes in said county, and to make and cause to be entered on their order book an order to that effect, and that thereupon no road tax shall be levied and collected for such year; and any law heretofore in force to the contrary shall be inoperative as to said county of Orange during such year, as said board shall so determine to dispense with said road tax.

SEC. 2. This act to be in force from and after the filing of a copy thereof in the clerk's office of said county of Orange.

CHAPTER XLI.

An Act to change the mode of electing county commissioners in the county of Pike.

[APPROVED FEBRUARY 10, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter the county commissioners of said county of Pike shall be elected by the qualified voters of their respective districts, and not by the voters of the whole county.

SEC. 2. This act to take effect and be in force from and after its passage.

CHAPTER XLII.

An Act to amend an act entitled "An act to incorporate the College Corner and Liberty turnpike company, and the Liberty and Abbington turnpike company," approved January 15, 1844, and all the acts amendatory thereto.

[APPROVED FEBRUARY 9, 1848.]

WHEREAS, For the purpose of continuing the succession of the said College Corner and Liberty turnpike company as a corporate body as at present organized, and to legalize, confirm and ratify the acts and proceedings of said turnpike company, done by them in the organization thereof,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the aforesaid College Corner and Liberty turnpike company be and is hereby declared to be duly organized, and that all acts and proceedings of said company heretofore done and executed, or agreed to be done and performed by the said company to any person or persons, or done, executed, and performed, or agreed to be done or promised to said company or to any person or persons in behalf or for the benefit of the said company, by any person or persons, are declared to be valid and binding in law on all parties thereto promising, agreeing to, or having executed the same; and that all contracts heretofore made by, for, or with the said company, are declared to be binding and of full force in law against each and every person or persons who have made or entered into contracts with said company, or any person or persons for the benefit of the same: *Provided,* That the said contracts were executed or entered into, by the parties thereto at the time thereof, in good faith, and were within the powers or for the benefit of said

company, and not in violation of any public law of the State of Indiana.

SEC. 2. All elections for directors of said company after the first, shall be held on the second Saturday of December, annually, under the direction of any three stock holders, (not directors at the time) to be appointed by the board at a private previous meeting, or by the stock-holders on the day of election: should the directors fail to appoint, or the stock-holders so appointed fail to serve—of which election the president of the board shall give thirty days' public notice in some newspaper published in the adjoining county, or by posting up not less than six written notices in the most public places in the county: *Provided,* That if from any cause whatever there should be no election held on said day as aforesaid, it shall be lawful to hold the election on any other day, on the appointment and notice of the president, as aforesaid.

SEC. 3. The stock-holders of said company on the day aforesaid shall elect by ballot five directors, who shall hold their offices one year and until their successors are elected and qualified; at which election the stock-holders present shall choose two judges and a clerk to conduct the same, which election shall close at 3 o'clock P. M. on said day: the directors must be stock-holders in said company: each stock-holder shall be entitled to one vote for each share he, she, or they may be the owner of for three months previous to the day of such election, which vote may be given in person or by proxy, duly appointed according to the by-laws of said company, and the persons having the highest plurality of votes given and counted in public shall be declared duly elected; but no delinquent stock-holder shall be eligible either as a director or to vote for such until he has paid up his delinquency.

SEC. 4. It shall be the duty of the directors selected above to meet within three days thereafter, and qualify themselves by oath or affirmation, which shall be done by the retiring president of the board, and immediately proceed to elect from their own body a president, clerk, and directors: *Provided, however,* Said board may elect any stock-holder to either of the offices of clerk or treasurer if it deems it most beneficial for the interest of the company so to do.

The said board at its regular meetings shall have full power and authority to fill all vacancies which may occur in said body by any means whatever, to make and enact all by-laws as they think necessary and proper for the government and welfare of the company, not inconsistent with this act, the laws of the United States or the State of Indiana, and do and perform all other acts and things, and exercise and enjoy all the rights and privileges for and on behalf of said company, which appertain to corporate bodies.

It shall be the duty of the president to preside over the deliberations of the board, sign the minutes thereof, and all contracts entered into for said company, all drafts for money on the treasurer, and to act for said company in absence of orders from the directory, according to his judgment in conducting the business of said com-

pany; but no act of his shall be binding on said company unless ordered or ratified by the board of directors aforesaid.

It shall be the duty of the treasurer to collect and disburse all moneys belonging to said company, and to safely keep the same until lawfully withdrawn from him by order of the board, to pay over to his successor all moneys remaining in his hands at the time of his retirement, and in all things to obey the orders of said board made according to law under this act.

The duty of the clerk shall be to keep a record of the proceedings of said board, and in all things obey the instructions thereof made in accordance with the law of this act touching the duties of clerk of said board, which officers shall give bond with sufficient security for the faithful performance of their duty.

SEC. 5. The said company, by their agents, shall have full power from time to time to examine, survey, mark, and locate the route for a turnpike road commencing at the corporation line in the town of Liberty, Union county, and running on the best ground for the interest of said company, and the convenience of the public, thence through any improved or unimproved land to the state line of Ohio, ending at College Corner, on said line, dividing Indiana and Ohio states.

And said company by their agents shall have full power to enter upon any land to make surveys and estimates, and for the purpose of searching for stone, gravel, wood, or any other materials necessary for the construction of said road; and the said company, their agents, or others authorized by them, shall have full authority to enter on all lands adjoining to or in the vicinity of said turnpike road as located and to dig and cut down, take and carry away so much stone, gravel, wood, or other materials as may be necessary for the construction of said road, which shall not have been appropriated by the owner for any particular purpose—but no such materials shall be taken away from any land without the consent of the owner thereof, until the rate of compensation shall be determined and either paid or tendered: *Provided, however,* That in all cases where any person through whose land the said road may run, or on whose land the said materials may be found, shall refuse to relinquish the same, or where a contract between the parties cannot be made for said materials, it shall be lawful for said company, their agent, or contractor to give notice to any justice of the peace of the county where such difficulties may occur, that such facts do exist, and such justice of the peace shall summon, by the sheriff of said county, the owner of such land or materials to appear before him on a particular day within ten days thereafter and shall appoint three disinterested free holders of said county, who, after taking an oath or affirmation faithfully and impartially to assess the damages, if any; shall view the land or materials, and after having taken into consideration the advantages as well as the disadvantages the road may be to the same, report thereon whether such person is entitled to damages or not; and if so, how much: but in estimating the value of the materials, the assessors shall

do so at cash value, without reference to any value being given to them by the construction of said road: whereupon said justice shall enter judgment thereon, unless for good cause shown; and on either party showing good cause, the justice may grant a review of the premises, either with or without costs: *Provided, however,* That either party may appeal from such judgment within thirty days to the circuit court of the proper county, and such court shall appoint viewers as above directed, who shall report at that or the next term of said court, in the discretion of the court, whose judgment shall be final: but no appeal shall be allowed from said justice for any informality in his proceedings, nor shall any matter be tried in said circuit court except the assessment of damages or value of the land or materials; nor shall said appeal delay the immediate construction of said road, the said land, or the removal and use of materials by the appellee; *Provided,* Said appellee will pay said assessment into the hands of said justice for the use of said appellant within thirty days from the rendition of the same, with all costs awarded against the said appellee. On all appeals under this section of this act to the circuit court from any judgment aforesaid, unless the said appellant shall recover a judgment in said circuit court on said assessment for a sum exceeding the assessment before the justice, of \$5, if defendant below, or if plaintiff, before said justice, the assessment from which he appeals must be reduced in said circuit court not less than \$5, otherwise said appellant will not recover in said circuit court any costs of the appellee.

SEC. 6. The capital stock of said corporation shall be twenty five thousand dollars, divided into shares of twenty-five dollars each; and said company are hereby invested with power to increase the capital stock of said company to accomplish the objects herein contemplated; if the same is necessary.

SEC. 7. That the directors of said company may receive personal property and labor, and also real estate in payment of stock to said company, which shall be estimated at cash value by said directors, and whenever the directors and the persons offering the same in payment of stock, are unable to agree as to the value thereof, the same shall be valued according to the provisions of the fifth section of this act.

SEC. 8. The president and directors of said company, shall cause said road to be opened not exceeding sixty feet wide, at least sixteen feet of which shall be made an artificial road, composed of stone or gravel well compacted together in such a manner as to secure a firm, substantial, and even road, rising in the middle with a gradual arch or curve, with sufficient drains on each side of the road to convey the water therefrom; and shall maintain and keep the same in good repair, and in no case shall the ascent in the road exceed four and one-half degrees elevation.

SEC. 9. That if it be found necessary and advantageous to the location and construction of said road, the company shall have the right to lay the same along and upon any state or county road;

Provided however, The said company may before said location is actually made, apply to the board of county commissioners of said county of Union for such right, who are hereby vested with power to grant the same by an order entered on their record; and when the said turnpike road is fully finished and completed, and fit for travel, the aforesaid state or county roads along and upon which said turnpike may be located shall be deemed vacated according to law.

SEC. 10. It shall be lawful for said company either before or after the location of any section of said road to obtain from the person or persons through whose land the same may pass, a relinquishment of so much land as may be necessary for the construction and location of said road, as also the stone, gravel, timber or other materials, that may be obtained on said route, and may contract for any materials that may be found or obtained on any other land near thereto; and it shall be lawful for said corporation to receive by donations, gifts, grants, or bequests, land, money, property, labor, or materials of any kind for the benefit of said corporation; and all such donations, gifts, grants, and bequests shall be binding on all persons capable in law to contract, executing the same if made in consideration of such location; and the said company may compel the due performance thereof according to law or in equity as the case may be: *Provided,* The same has been made in writing, and signed by the party making the same.

SEC. 11. That when said corporation shall have procured the right of way as herein provided, they shall be seized of the right to such land, and shall have the sole use and occupation of the same during the time the same shall be occupied for said road, and no person, body corporate or politic, shall in any way interfere therewith, molest, disturb, or injure any of the rights and privileges hereby granted, or that would be calculated to detract from or affect the profits of said corporation.

SEC. 12. That if from any cause whatever the funds of the said company shall be found inadequate to meet the payments due to the contractors on said road for its construction or completion, the said company are hereby authorized and empowered to borrow on the stock and credit of said company, any sum of money for a temporary purpose not exceeding one fourth the amount of the subscribed capital stock of said company; but the directors shall not grant any special pledge of the stock, works, or capital of said company for the payment or redemption thereof.

SEC. 13. That the following shall be the rates of toll to be demanded and received of all persons traveling said road, viz: for every five miles of said road, and in the same proportion for any less distance: For every four wheeled carriage or wagon drawn by two horses or oxen 12½ cents; for every horse or other animal in addition thereto 3 cents; for every two wheeled carriage drawn by two horses or other animals 8 cents; for every horse or other animal in addition thereto 3 cents; for every sleigh or sled drawn by

two horses or oxen 6½ cents; for every horse or animal in addition thereto 2 cents; for every horse and rider 3 cents; for every horse, mule, or ass, six months old and upwards, 2 cents; for every head of neat cattle six months old and upwards, 1½ cents; for every head of sheep or hogs, 1 cent; for every four wheeled pleasure carriage drawn by two horses, 25 cents; for every additional horse or other animal 3 cents; for every gig, chaise, buggy, cart, or other vehicle drawn by one horse or other animal 6½ cents: *Provided,* That such persons shall be exempted from the tolls aforesaid as are specified in the next succeeding section of this act.

SEC. 14. That all persons going to or returning from mill on horseback, public worship on sabbaths or other days of the week, funerals, militia trainings, ministers of the gospel, and the troops and armies of the United States may pass on said road free of toll. Said company by their by-laws may make any other exceptions or reductions in all other cases which they may think necessary and proper to be made.

SEC. 15. That if any person or persons using said road shall, with intent to defraud said company or to avoid the payment of tolls, pass through any private gate or bars, every such person concerned in such fraudulent practice, or who shall use any fraudulent means to evade the payment thereof for himself or others, shall, for every such offence, forfeit and pay the sum of five dollars, to be recovered with costs in an action of debt at suit of said company, before any justice of peace in said county of Union; on which judgment no stay of execution shall be allowed: *Provided,* Nothing in this act shall be so construed as to prevent persons from using said road for neighborhood purposes.

SEC. 16. That if any person or persons shall wilfully or wantonly obstruct, injure, or destroy said road, or any part thereof, or injure or destroy any toll-gate, house, mile post, or stone thereon, or any painted list of tolls, they shall on conviction thereof, forfeit and pay to said company treble the value of the property destroyed, or injury sustained, to be recovered by said company, with costs of suit, in an action on the case, before any justice of the peace within the county of Union.

SEC. 17. That said company shall put up a post or stone at the end of each mile, with the number of miles from the state line of Ohio fairly cut or painted thereon; and, also, in a conspicuous place at or near each gate they shall place a board with the rates of toll fairly painted thereon, and no tolls shall be demanded unless said rates are kept up as herein provided.

SEC. 18. That if any toll-gatherer on said road shall unreasonably detain any person or passengers after the toll has been paid or tendered, or who shall demand and receive greater toll than is by this act allowed, he shall for every such offence forfeit and pay a sum not exceeding ten dollars to the party aggrieved, to be recovered before any justice of the peace having jurisdiction thereof, with costs, at the suit of the State of Indiana; *Provided,* Such suit is

commenced within twenty days from the committing of said offence.

SEC. 19. That it shall be the duty of the board of directors to make an annual report of their proceedings to the stockholders of said company, on the day of, and prior to the annual election of directors, which report shall specify accurately the affairs of said company, showing the amount of costs for the construction of said road and for repairing the same; with all expenditures and amount of tolls received during their term of office for the past year, and all other necessary and incidental matters connected with the management and conducting of said turnpike.

SEC. 20. That it shall be the duty of said board to declare annually what dividend shall be paid to the stockholders of said company on their respective shares, which shall be payable at the office of the treasurer of said company, but no dividend shall be paid until the whole debts of the company are fully discharged and liquidated for the construction of said road, and all moneys that may have been borrowed by the directors for the use of said company.

SEC. 21. That the said company shall be and they are hereby authorized and empowered to demand and receive the same rate of toll herein specified, from the rider, driver, or owner of any horse, carriage, or vehicle conveying the mail of the United States; that they might claim and demand of and from any other persons using, driving, riding, or passing over said turnpike road; and may recover said tolls before any justice of the peace having jurisdiction thereof in an action of debt, with costs of suit, any law to the contrary notwithstanding: *Provided however*, That the said company shall not stop or detain the said mail, or any person, horse, or carriage, conveying the same for the payment of the toll thereof.

SEC. 22. That after the completion of said road and the demanding and receiving of tolls thereon by the said company; if by the wilful neglect of the said company, the said road should become impassable for want of repair or otherwise, and continue so for the space of ten days next ensuing from notice, any person feeling himself aggrieved or injured by such neglect may make complaint to any justice of the peace of the county of Union, whose duty it shall be, forthwith, to appoint three disinterested freeholders of said county to examine the part of the road complained of, and report to him immediately; and if in their opinion the road is not in the state of repair contemplated by this act, the justice of the peace aforesaid, shall certify the same to the gate keeper or keepers on said road, forbidding them to charge or receive any toll thereon, until said road is fully repaired and made sufficient for travel thereon.

SEC. 23. That the said company shall have full power to call for such proportion of the stock subscribed, not exceeding twenty-five per centum of the amount of stock every six months as they may deem proper, to be paid at such time and place as they may designate, by giving sixty days' notice in some weekly newspaper,

published in the county of Union, or if there is none published there, then in one of the adjoining counties; or by posting up six written or printed notices in six of the most public places in the county; and in all such notices, the amount on each share demanded and the time and place of payment, shall be set forth; and if any stockholder shall neglect or refuse to pay such requisition within ten days after the time named for such payment, or before suit brought for the same, the said company may bring suit against such delinquent for the amount due, in any court of competent jurisdiction, in an action of debt, and recover the amount with two per centum per month, interest thereon for such detention; and if the amount of judgment recovered cannot be made on execution, or if such delinquent has removed out of the state, then the said company may, by an order on their books, declare said stock forfeited to the company with whatever amount may have been paid thereon, and the same shall be absolutely forfeited to said company.

SEC. 24. Certificates of stock shall be given to the stockholders when said stock is paid, which shall be evidence of the amount of stock held; they shall be signed by the president, and countersigned by the clerk of such company, and such stock shall only be transferable on the books of the company under the hand of the owner, or his representative lawfully appointed; but the said stock shall at all times be holden by said company, for any debt due by said owner to the company; or for any sum that may thereafter become due on a contract made by said owner to said company prior to such transfer.

SEC. 25. That the act "being an act to incorporate the College Corner and Liberty turnpike company, and the Liberty and Abington turnpike company," approved January 15, 1844, (except the first section thereof) and an act to amend said act, approved January 13, 1845, and all laws or parts of laws contravening the provisions of this act, so far as they relate to the said College Corner and Liberty turnpike company and the government of said corporation, be and are hereby repealed.

SEC. 26. This act to be in force from and after its passage, and shall be deemed a public act and construed liberally for all beneficial purposes; all costs taxed under it, shall be taxed according to the rules of the courts in which the cases are decided; valuers to receive jurors' fees, and the sheriff for his services his usual fees for such service; defendants may plead the general issue, and under it may give in evidence any and every matter in defence in all actions brought under this act.

CHAPTER XLIII.

An Act granting additional compensation to the probate judges of St. Joseph, Lagrange, and Bartholomew counties.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board doing county business of St. Joseph, Lagrange, and Bartholomew counties be, and they are hereby authorized to increase the compensation of the present probate judges of said counties, to any sum not exceeding three dollars per day for their past and future services, while engaged in holding the probate courts of said counties; the additional amount to be paid out of the treasury of said counties.

SEC. 2. This act to take effect and be in force from and after its passage.

CHAPTER XLIV.

An Act explanatory of an act entitled "an act to secure to Ohio county a share of the common school and surplus revenue funds, and for other purposes," approved January 6, 1847.

[APPROVED JANUARY 28, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section two in said act shall be so construed as to authorize and require the county auditor of Dearborn county to pay over to the county auditor of Ohio county all the funds belonging to congressional township number four, of range one west, in Ohio county, arising from the sale of section fifteen, in township three, of range number two west, in said county of Ohio.

SEC. 2. That it is hereby made the duty of the county auditor of Dearborn county to hand over to the county auditor of Ohio county, on demand, all moneys, evidences of debt, and all other papers belonging to said congressional township number four, of range number one west, in said county.

SEC. 3. This act to take effect and be in force from and after its publication in the "Indiana Blade," which publication shall be at the expense of Ohio county.

CHAPTER XLV.

An Act for the relief of the surplus revenue fund belonging to Decatur county.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the auditor of Decatur county be, and he is hereby fully empowered and authorized to sell, for the benefit of the surplus revenue fund belonging to said county, for cash in hand, or on time, with interest as provided by law, the west half of the south half of the south-east quarter of section seventeen, in township ten north, of range eight east, situated in said county, and heretofore sold to the State of Indiana, for the use of said fund of said county, as the property of Nathaniel and Susannah Gerard, on an execution (or order of sale) issued from the Decatur circuit court in favor of said state, on the relation of A. R. Forsyth, agent of said fund belonging to said county, and against said Nathaniel and Susannah Gerard.

SEC. 2. That said auditor shall sell said tract of land, for the use of said fund, for the best price that can be obtained for the same, irrespective of, and without any regard to the amount due to said fund, for which said land is now bound and held by the said State of Indiana, and he may sell the same at private sale, without notice by advertising or otherwise, or at public sale, as he may deem expedient, and upon full payment of the purchase money, said auditor shall convey said premises to the purchaser, by deed in fee simple, according to this act and the law in such case provided.

SEC. 3. That in all respects, except as herein provided, said auditor, in the sale of said premises, shall be governed by the statutes now in force, relative to the sale of lands held by the state, for the use of the surplus revenue fund belonging to the respective counties of this state.

SEC. 4. This act to take effect and be in force from the after its passage.

CHAPTER XLVI.

An Act to authorize the Dearborn probate court to make certain orders and decrees therein named.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the probate court of Dearborn county, Indiana, be and is hereby fully authorized and empowered to make such order, entry and decree as will enable and authorize Thomas B. Pinckard, father and guardian of Mary Pinckard, Margaret Pinckard, Catharine Pinckard, Thomas B. Pinckard, and William M. Pinckard, minor children and heirs of Catharine Pinckard, deceased, to dispose of, sell, and convey by lease, title, bond, or absolute deed in fee all the real estate of the said minor heirs within the corporate limits of the city of Lawrenceburgh in said county, consisting of out lots numbers fifty-one, fifty-two, fifty-three, fifty-four, one half of fifty-five and one half of forty-four; and also any and all other real estate belonging to the said minor children of said Catharine Pinckard and Thomas B. Pinakard, situate in the said county of Dearborn, in the manner and under the restrictions following, viz:

The said court may authorize and empower the said Thomas B. Pinckard to cause the said out lots to be subdivided and laid out, marked, and recorded, as an addition to the said city of Lawrenceburgh, and empower the said Thomas B. Pinckard to fix upon and determine the size and location of the lots that may be formed by such subdivision and addition, and also empower the said Thomas B. Pinckard to locate and dedicate to the public use all such streets and alleys as he the said Pinckard may deem necessary to promote the sale and enhance the convenience and value of said lots that may be so laid out, and to define and establish the length, width, courses, and directions of all such streets and alleys within such subdivision and addition, and the said lots and streets and alleys to cause to be numbered, marked, and recorded upon the records of said county as fully and to the same effect as the said Thomas B. Pinckard could lawfully do if he were the sole owner of the property above mentioned.

The said Dearborn probate court may (and full power is hereby granted to that purpose) empower and authorize and direct the said Thomas B. Pinckard (if he shall deem it expedient and to the interests of the said minor) in case any street should be laid out wholly upon the land of the said minor children, to make such contract or arrangement with the owners of lands bordering upon such street, as he may deem just and reasonable, for the benefit of said street accruing to said adjacent owners, and may authorize him, said Pinckard, to receive a compensation for one half of such streets or the advantages thereof, in money or in lots or lands conveyed to

him in trust for said minors upon the opposite side of such street by the respective owners, or any other arrangement which may be by the said Pinckard deemed just and equitable and conducive to the interest of his minor children aforesaid; and also in case any strip of ground not of sufficient width to justify laying off the same into lots, shall be left on the side of any street next to the land of any adjacent owner and between said street and the line of said adjacent owners, it shall and may be lawful for the said court to order and authorize the said Pinckard to convey the said strip in whole or in part to any person or persons who will pay a reasonable price therefor (to be adjudged of by said Pinckard,) in money, or who will pay for the same by adding a proper number of feet to said strip so as to make the whole of sufficient width for lots, and make and execute deeds each to the other for alternate lots as far as the said strip may extend through the lots aforesaid. *Provided,* That before any sale shall be made under the authority of this act, the said Thomas B. Pinckard shall cause an inventory and appraisement of the lands so to be sold, to be made and filed in the office of the clerk of the probate court of Dearborn county, which inventory and appraisement shall in all things be governed by the law now in force regulating the sale of lands for the payment of the debts of any deceased person by executors and administrators.

SEC. 2. It is further enacted that the said probate court may order and empower the said Thomas B. Pinckard to sell at private sale, and without any appraisement, the said lots so to be laid out as aforesaid, and such lots as may be obtained by him by way of payment and compensation for the advantage of any street so by him laid out upon the lands of said minors, or for portions of any strip or border as described in section first, in such way and manner and upon such terms as may be by the said Thomas B. Pinckard deemed expedient and most to the interests and advantage of the said minor children, either for cash in hand or upon such time and manner of payment as may be agreed upon by the said Pinckard and the purchaser of any of the said lots; all deferred payments upon any such purchase to bear legal interest and to be secured by lien upon the lot or lots sold; and the said court may also empower the said Pinckard to execute, seal, acknowledge and deliver all proper conveyances by deed, lease, or other agreement relating to the sale and purchase of said lots, without any report or confirmation of said sale ordered, being first made to or by said probate court: *Provided,* That no sale of said property or any part thereof shall be made at private sale for less than the appraised value thereof.

SEC. 3. That before said probate court proceeds to make any such decree as above specified and empowered, it shall satisfactorily appear to said court that said Thomas B. Pinckard has been duly appointed and sworn as guardian of the persons and estates of said minor children, and that it is necessary that such disposition and sale of said property should be made for the maintenance, sup-

port and education of said minors, or that such disposition and sale would be conducive to their interests, and that he has executed a bond with freehold security to the approval of said court, in the penal sum of an amount equal to the then appraised value of such real estate embraced in the order or decree of said court, conditioned as bonds of guardians are required by law, and for the faithful performance of his duties arising under and by virtue of the said decree of court; *And it is further provided*, That the said Thomas B. Pinckard shall be chargeable with the whole amount of cash received by sale of the aforesaid lots in the same manner as if he had made application for the sale thereof under the existing laws of this state, and shall be governed in the disposition of the fund arising from such sales in the same manner as is provided for by the laws now in force in this state regulating the duties of guardian and ward, except in so far as they may conflict with the provisions of this act. *And provided further*, That the said Pinckard shall once each year, after such order of court, (unless excused by said court,) make report to said court of his sales, setting forth the lot or lots sold, to whom sold, for what price, upon what terms, and the security taken for deferred payments.

SEC. 4. That from and after the passage of this act the road or street now opened from the north-west corner of out lot No. fifty-one, through and across the aforesaid out lot to Short street, in said city, be and the same is hereby declared vacated.

SEC. 5. This act to be in force from and after its passage.

CHAPTER XLVII.

An Act to repeal an act in relation to horses and jackasses,

[APPROVED JANUARY 29, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled an act to improve the breed of horses, jackasses and mules in the counties of Blackford and Kosciusko, approved January 18, 1847, be, and the same is hereby repealed,

SEC. 2. This act shall be in force from and after its passage.

CHAPTER XLVIII.

An Act to amend an act compelling speculators to pay a road tax equal to that paid by actual settlers.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled an "act to compel speculators to pay a road tax equal to that paid by actual settlers," approved January 31, 1842, be, and the same is hereby so amended, that all male inhabitants liable, by said act, to work upon the roads, may be required by the proper supervisor, or supervisors, to work two days in each year upon the roads, if such supervisor or supervisors shall deem so much labor proper, subject to the same provisions and commutations per day, as is now by said act provided.

SEC. 2. The counties of Dekalb, Allen, Benton, White, Pulaski, and Wells are exempted from the provisions of this act, and this act is extended to the county of St. Joseph.

SEC. 3. All acts and parts of acts, so far as the same contravene the provisions of this act, are hereby repealed, and this act shall be in force from and after its passage.

CHAPTER XLIX.

An Act to extend the time for the final payment for certain school lands in Miami county and for other purposes.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*. That the purchasers of any and all lands in section sixteen (16) of township twenty-eight, (28) of range five (5) east, in the county of Miami, shall be allowed a credit of twenty-five years from the time the said lands were sold: the said purchasers paying the interest annually in advance upon the purchase money remaining unpaid as provided by law.

SEC. 2. When any lot or parcel of said land is owned by two or more persons, the owner of any part held under a certificate of purchase, or as assignee or vendee of the person to whom the original certificate of purchase was given, may make full payment for his portion of the same, for which the auditor and school commissioner of said county shall make to such owner a proper deed of conveyance upon

the payment of his portion of the purchase money, and the presentation by such owner of the certificate of the trustees of said township, verified by their oath or affirmation, that, by making such deed the security for the remaining balance of purchase money due on such certificate will not be impaired.

SEC. 3. The provisions of the foregoing sections shall apply to all other school lands in the said county of Miami, the final payment of which becomes due within the year 1848, and to the trustees of the townships within which the same may be situate.

SEC. 4. This act to be in force from and after its passage.

CHAPTER L.

An Act to enable the supervisors of Scott county to make their returns to the board doing county business, on the first Monday in March annually.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the supervisors of the county of Scott to make their returns to the board doing county business, on the first Monday in March annually.

SEC. 2. The auditor shall prepare and have ready for delivery to the several supervisors of the county, by the first Monday in March annually, a list of the names of all persons owning land within their respective districts to whom any highway tax is charged, on such duplicate, with the amount of the same.

SEC. 3. That, should it become necessary for the supervisors to do work on the highways after they have made their returns, they shall make a report of the same to their successors in office, which successors shall embody the same in their annual report.

SEC. 4. All laws and parts of laws coming within the purview of this act, be, and the same are hereby repealed, so far as the county of Scott is concerned.

SEC. 5. This act to take effect from and after its passage.

CHAPTER LI.

An Act providing for the sale of certain school lands in the county of Dearborn, belonging to township 9, range 3 west, in Franklin county.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the trustees of congressional township No. nine, of range three west, in the county of Franklin, are hereby authorized to sell their school land being in the county of Dearborn, in township 7, of range 3 west, section 27, in the following manner:

1st. To divide said lands into such lots as in the opinion of the trustees will insure the best price.

2d. To put up advertisements in five of the most public places in the township in which said land lies, and also to have inserted in one of the public newspapers in the county of Franklin and in the county of Dearborn, at least thirty days before the sale—stating the time and place where said land will be sold.

3d. Said land shall be sold at public sale, on the premises, or at the most public place in the township.

4th. The clerk of the board of trustees of said township No. 9, range 3, shall report within five days after said sale, to the auditor of the county of Franklin, the number of the lots sold, the name of the person to whom sold, and the amount which each lot sold for, and the said auditor of the county of Franklin, the purchaser, and all the parties concerned, shall be governed and bound by the laws of the revised statutes of 1843, article 13 of chapter 13, commencing at section (178) one hundred and seventy-eight.

SEC. 2. That if said land or any part thereof is not sold at the sale above provided for, the said trustees are authorized to sell said land in such way and manner as they shall think best.

SEC. 3. This act to be in force from and after its passage.

CHAPTER LII.

An Act granting to the citizens of Rising Sun a city charter.

[APPROVED JANUARY 28, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of Ohio county as is contained within the following boundaries, to-wit: commencing at low water mark on the Ohio river one-half mile above the centre of the mouth of Main

or Third street in said town, thence back from the river on a line parallel with said street one mile, thence at right angles in a southern direction one mile, thence at right angles in an eastern direction one mile to the Ohio river at low water mark, thence up said river to the place of beginning, shall be, and hereby is, declared to be a city, and the inhabitants thereof are created a body corporate and politic, with perpetual succession, by the name and style of "The City of Rising Sun," and as such by that name, shall be capable in law of contracting and being contracted with, suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places, and in all matters whatsoever, and also of purchasing, using, accepting, enjoying, and conveying real and personal estate, and may have and use a corporate seal, and change, alter, and renew the same at pleasure, and shall be competent to have, exercise, and enjoy all the rights, immunities, powers, and privileges, and be subject to all the duties and obligations incumbent upon and appertaining to a municipal corporation.

SEC. 2. That the said corporation of the said city of Rising Sun shall be, and hereby is, invested as the lawful owner and proprietor, with all the real and personal estate, and all the rights and privileges thereof, together with all the property funds and revenues, and all moneys, debts, accounts, and demands due and owing, or in anywise belonging to the president and trustees of the town of Rising Sun, or which by or under the authority of any former act or acts have acquired, vested in, or is, or may be owing or belonging to the said president and trustees of the town of Rising Sun; and the same are hereby transferred to the corporate body enacted and established by this act, and all suits pending and judgments recovered by, in favor of, or against the said president and trustees of the town of Rising Sun, together with all the rights, interest, claims, and demands in favor of and against the same, may be continued, prosecuted, defended, and collected in the same manner as though this act had never been passed.

SEC. 3. The qualified voters within the bounds of the corporation shall be required to meet on the second Monday of September annually, for the purpose of electing one mayor, four councilmen, one clerk, one treasurer, one street commissioner, and one marshal; who shall hold their office for one year, and until their successors are elected and qualified; a majority of the councilmen, after taking an oath or affirmation for the faithful discharge of their duties, shall constitute a quorum for the transaction of business; they shall be judges of the election returns and of the qualifications and eligibility of mayor and other officers, and their own members shall determine the rules of their own proceedings, and may compel the attendance of absent members in such a manner and under such penalties as they may see fit to prescribe.

SEC. 4. It shall be the duty of the mayor to be vigilant and active at all times in causing the laws and ordinances of said corpo-

ration to be put in force, to inspect the conduct of all subordinate officers in the discharge of their duties. He shall keep the seal of said corporation, sign all commissions, licenses, and permits which may be granted by or under the authority of the council, and shall keep an office in some convenient place within said corporation, to be provided by the council. He shall perform such duties and exercise such powers as from time to time may devolve upon him by the ordinances of said corporation, not inconsistent with the provisions of this act and the character and dignity of his office, and generally to do and perform all such other duties, and exercise such other powers as pertain to the office of justice of the peace. He shall, in his judicial capacity, have exclusive original jurisdiction of all cases for the violation of the ordinances of said corporation, and shall be vested with all the powers of justice of the peace, both in civil and criminal cases, and shall be governed by the statutes of the state regulating justices of the peace in civil and criminal cases. The mayor, moreover, shall have authority to take and certify affidavits, depositions, and the acknowledgments of deeds for the conveyance or incumbrance of real estate, and powers of attorney. Furthermore, the mayor, when present, shall preside at all meetings of the council, and in case of a tie vote on any question or proposition shall give the casting vote, except that in making laws and ordinances he shall have no vote; in the absence of the mayor the council may appoint one of their own number to preside for the time being, who, as president, shall possess the power of the mayor while acting in that capacity, and the additional power of giving the casting vote on all questions whatever. The mayor, before taking the oath of office, shall enter into bond with security to the satisfaction of the council in the sum of one thousand dollars, payable to the State of Indiana for the use of the corporation, for the faithful performance of the duties of his office.

SEC. 5. The marshal shall be the chief ministerial officer of said mayor, and as such invested with all the powers of a sheriff and constable, entitled to the same fees as a constable, and subject to the same penalties and amercements; he shall execute and return all process directed to him by the mayor, and, when necessary, may serve the same in any part of Ohio county, and in the Ohio river adjoining said county; it shall be his duty to suppress all riots, disturbances, and breaches of the peace, to apprehend all rioters, disorderly persons, and disturbers of the public peace in said city, and all persons in the act of committing any indictable offence against the laws of the state, or violating any of the city ordinances, or fleeing from justice after having committed such offence, and him, or her, or them forthwith take into custody, and bring before the mayor for examination, and in case of resistance call to his aid and command the assistance of all by-standers and others in the vicinity; he shall perform such other and further duties as may from time to time be required of him by the common council, and may appoint one or more deputies, and at pleasure discharge or dismiss

them from office, being always responsible for the correct discharge of their duties; before entering on his duties he shall take an oath of office, and give bond with security, to the acceptance of the common council, for the faithful discharge of his duties; all constables shall be ministerial officers of the mayor's court in like manner as they are of justices' courts, and shall be bound in the same manner to execute his process.

SEC. 6. It shall also be the duty of the marshal, when he is furnished with a duplicate of taxes duly certified to by the mayor and attested by the clerk of said corporation, to proceed to the collection of the same, at such time and in such a manner as shall hereafter be provided for, and for such services the council shall allow what they may think just and right.

SEC. 7. The said marshal, in receiving such duplicate, shall forthwith cause notices to be stuck up in three of the most public places in said corporation, and also cause the same to be published in some public newspaper having general circulation in said corporation, for four successive weeks, stating in such notices the amount of tax charged for corporation purposes on each one hundred dollars' valuation, also the amount charged on each poll, hogs, dogs, and cows, and also the time when, and the place where, he will attend for the purpose of receiving taxes; and it shall further be the duty of said marshal, in case any person shall refuse or neglect to pay the tax imposed on him, after the expiration of three months from the time of the first publication of said notice, to levy the same, together with ten per centum damages and the costs and charges that may accrue, by distress and sale of the goods, chattles, and real estate of such person, as ought to pay the same, where-soever the same may be found within said county, giving twenty days' notice of the time and place of sale of goods and chattels, and forty days' notice of the time and place of the sale of real estate, by written notices, stuck up in three of the most public places in said corporation, or by advertisement in some newspaper of general circulation, if there be any published in said corporation.

SEC. 8. In selling lots or lands, the marshal shall sell the smallest possible quantity that any bidder will take and pay the amount of taxes due and chargeable thereon, and costs; and when any bidder shall offer to take less than the entire lot or tract, it shall be the duty of the marshal, at such sale, to designate and declare in what manner the division shall be made; and having made a sale to any person of any lot or tract of land, or part thereof, it shall be the duty of the marshal to make, seal, and acknowledge before some competent authority a certificate for the same to such purchaser immediately after the sale of any lot or lots of land, to make return of the same to the treasurer of said corporation, distinctly stating the lots or tracts sold, the name of the purchaser, the day of sale, and the amount of taxes and costs; and any owner or claimant of any lot or tract so sold, their agent or attorney, may redeem said lot or tracts at any time within two years from the day of sale, by

paying and depositing with the treasurer, for the use of the purchaser, the taxes and costs so paid as aforesaid, together with interest thereon at and after the rates of one hundred per centum per annum, from the day of sale to the day of making such redemption.

SEC. 9. After the expiration of two years from and after such sale, it shall be the duty of said treasurer, on the application of any person, his heirs, or lawful assignee, holding a certificate of any lot or tract of land unredeemed, to endorse on the back thereof his certificate of the fact that the lot or tract in said certificate specified has not been redeemed, which certificate of the treasurer shall be by him acknowledged before some competent officer; and such certificate of the marshal, made and acknowledged as aforesaid, and endorsed and acknowledged by the treasurer as aforesaid, shall cause to vest in the purchaser, his heirs, and assigns, from the day of sale, an absolute and indefeasible estate in *fee simple* to the lot or lands therein described, and shall be admitted to record in the same manner as deeds, and shall be conclusive evidence of the regularity of sale, and shall not be annulled or set aside in any court whatsoever, except by proof [of] any one or more of the following facts: That said lot, or fraction of lot, piece, parcel, or tract of land in said certificate named was not liable to be taxed; second, that the taxes charged thereon were actually paid to the marshal or his deputy before the sale, or were tendered and refused; third, that the said premises were redeemed within two years from the day of sale by depositing with the treasurer as aforesaid.

SEC. 10. It shall be the duty of the marshal to pay over to the treasurer all moneys by him collected, as may be ordered by the council, taking the treasurer's receipt for the same. The marshal shall be entitled to such allowance as shall be made him by the council for collecting without distress and sale, and one dollar on all sales of goods and chattles, together with charges for keeping property distrained, and fifty cents for each sale made of real estate, and for giving certificate, and twenty-five cents for the acknowledgment of such certificate, to be added and estimated in the sum for which such goods and chattles, lot, or tract, or part thereof is sold. It shall further be the duty of the marshal to assess all persons and property, that he may not find contained in the duplicate, subject to taxation.

SEC. 11. The treasurer, before entering on the duties of his office, shall take an oath before some competent authority, and shall give bond and security, to be approved by the council, for the faithful performance of his duties generally, and for paying over and accounting for all moneys that [may] come into his hands; he shall receive the list and returns made by the collector of lots and lands sold by him for taxes, as provided for in the eighth section, and preserve the same, and on the application of any owner, or claimant, of any lot or piece of land, to redeem the same, to receive from the said owner or claimant the amount that shall be due on said lot

or parcel of land, as provided for in a former section, and pay the same over to the purchaser, his heirs, or assigns, taking his or her receipt therefor. It shall be the duty of the treasurer to pay over all moneys in his hands on warrants drawn by the mayor, and countersigned by the clerk, and to make a full and complete exhibit of all moneys that may have been received and paid out by him, whenever he shall be requested so to do by the mayor or council.

SEC. 12. The clerk shall attend all meetings of the council, shall make a record of all their proceedings in a book kept for that purpose, and enter, in a book provided for that purpose, all laws and ordinances passed by the council; he shall attest all orders, license, and permits, and do and perform such other duties as shall from time to time be required by the council.

SEC. 13. The said council shall have power, and it is hereby made their duty, to make and publish from time to time all such ordinances as shall be necessary to secure said corporation and the inhabitants thereof against injuries by fire, thieves, robbers, burglars, and all other persons violating the public peace, for the suppression of riots, gaming, pilfering, indecent and disorderly conduct, for the punishment of all lewd and lascivious behavior in the streets and other public places in the corporation, and for the punishment of all vagrants and idle persons. They shall have power from time to time to make and publish all such ordinances and laws as to them shall seem necessary to provide for the safety, preserve the health, promote the prosperity, order, comfort, and convenience of said corporation, and the inhabitants thereof; to impose fines, forfeitures, and penalties on all persons offending against the laws and ordinances of said corporation, and provide for the prosecution, recovery, and collection thereof.

SEC. 14. It shall be the duty of the council by or before the first of September annually, to appoint three judges, one clerk, and one inspector of elections from among the qualified voters of said corporation, whose duty it shall be to attend at the place of holding elections, as provided for in section three; after taking an oath faithfully and impartially to discharge the duty assigned them, shall proceed to hold an election, which shall in all things be conducted agreeably to the laws regulating township elections, and shall within two days make and direct the returns thereof to the mayor of said corporation, in the same manner that election returns are required to be made to the clerk of the county. The mayor and council shall open the returns, which have been made to him as aforesaid, and shall make an abstract of all the votes, and file the same with the secretary, who shall make a record thereof, in a book to be kept by him for that purpose. It shall be the duty of the mayor to notify the person or persons, as may be, of his or their election, by causing a written notice thereof to be served on him or them by the marshal, and any person or persons so elected shall within ten days after his or their election, cause himself, or themselves, to be quali-

fied to enter upon the discharge of the duties of said office, and in default thereof, the office to which he or they shall have been elected, shall be vacant. It shall be the duty of the mayor in case of such vacancy to order another election, as provided for in this section. It shall be the duty of the mayor, at least two weeks before any election, to issue a proclamation to the qualified voters of said corporation setting forth the time and place of holding such election and the officers to be elected.

SEC. 15. In case any office shall become vacant by death, removal, resignation or otherwise, of any of the officers, it shall be the duty of the council to fill such vacancy, *pro tempore*, until the next annual election, and in case the office of mayor or councilman, it shall be the duty of the council to order an election as provided for in section fourteen.

SEC. 16. Each and every white male inhabitant, above the age of twenty-one years, having the qualifications of an elector for members of the General Assembly of the State of Indiana, and having resided within said corporation six months, next preceeding any election for corporation officers, shall be deemed a qualified voter.

SEC. 17. It shall be the duty of the council on the first Monday of March annually, to appoint an assessor, who shall within ten days after his appointment, cause himself to be qualified, and enter upon the duties of his office.

SEC. 18. It shall be the duty of the assessor, after having filed with the mayor, his official bond, conditioned for the faithful discharge of his duties, and taken an oath, well, truly, and faithfully to discharge the duties required of him, to proceed forthwith to make out a full and fair list of all such persons and property as he may be directed to assess, the same to be made out as far as practicable, in alphabetical order, setting opposite to each owner or claimant's name the lot or lots, piece, parcel, or tract of ground, particularly described, by him or them owned or claimed, and the value thereof either inclusive or exclusive of improvements, as he may be directed; also the polls, and the nature and number of the specific articles required to be listed, and shall calculate and carry out the amount of tax chargeable, according to the rate established, against any lot, or piece of ground, and against any person or personal property. *Provided*, That if there be any real estate of which said assessor can find no owner or claimant, it shall be his duty to assess the same by its number or description, stating that the owner is unknown. Whenever said assessor shall be convinced that any of the inhabitants within the corporation are giving an incorrect valuation of their property, subject to be taxed, he may, if deemed necessary, administer an oath to such person, or persons, requiring them to answer to such questions as he may ask touching the value thereof, and the property owned by him subject to taxation. It shall be the duty of the said assessor to complete the assessment, and return the same to the council, or clerk of said corporation, as may be provided for by the council, without delay.

SEC. 19. Whenever the owner or owners of two-thirds of the

fronts of any streets or squares, shall signify to the council, their wish to improve any street or square, within the corporation, by grading, graveling, paving, curbing, or guttering, or any other improvements, representing plainly and distinctly the improvement contemplated and wanted, or whenever the owner or owners of a majority of the number of feet of land fronting on any street or square, shall signify to the council in writing, their wish to have the side walk curbed and paved, it shall be the duty of the council to cause the same to be done in the best and most convenient manner agreeably to the wishes of the petitioners; and the expenses thereof shall be assessed and levied on all the lots fronting on said street, or square, equally, per front foot, for the distance such improvement or paving may be made; and the council may, by special ordinance provide for the collection of the expenses of all such improvement, and in case of the nonpayment, for the sale of the lot or fraction of lots, on which such taxes remain unpaid, such sale to be conducted in the same manner as provided for in the sale of lots and lands, for the nonpayment of taxes. *Provided always*, That the council shall have power to assess the expenses of such improvements on the lots on said streets or squares, agreeably to the valuation thereof. *And provided also*, That the council may, when in their opinion the general good requires it, cause any such improvement to be made without petition, and assess the expenses either pro-rata per square foot, or agreeably to the valuation as aforesaid, but the concurrence of two-thirds of the council shall be necessary to authorize an improvement without petition, or to authorize the levying of the expenses ad valorem at the expense of the corporation.

SEC. 20. The council shall erect, establish, and regulate the markets and market places of said corporation, for the sale of provisions, vegetables, and other articles necessary for the sustenance, comfort, and convenience of said corporation, and the inhabitants thereof, and they shall have power to establish and construct landing places, wharves, and docks, in said corporation, at any and all places within the limits or boundaries of the same, or in any of the corporation property, and fix the rate of landing, wharfage, and dockage of all steam-boats, rafts, and other water-crafts, and all goods, wares, merchandize, produce, and other articles that may be moved at, landing on, or taken from any landing, wharf, or dock belonging to said corporation.

SEC. 21. The council shall levy and collect a tax on all real and personal property within the bounds of said corporation, except the property of widows, who shall have three hundred dollars exempt from taxation, not exceeding one half of one per centum, and may also, at their discretion levy and collect a poll tax not exceeding fifty cents on each male inhabitant of said corporation over the age of twenty-one years and under fifty years. They may further, at their discretion, levy and collect a specific tax on dogs, hogs, and cows, running at large in the streets, and in lieu of the road tax as provided or in the statutes of Indiana, shall cause to be levied and collected

on each male inhabitant of said corporation, who is liable to work on roads under the statutes of the state of Indiana, a specific tax of one dollar each year.

SEC. 22. The said council shall have full and exclusive power to grant or refuse license to tavern keepers, inn holders, and retailers of spirituous liquors by less quantities than one quart, except for medical purposes, keepers of all beer, and porter houses and shops, and all other houses of public entertainment, showmen, keepers, and managers, of theatrical exhibitions, and all other exhibitions for money and other rewards. They shall have power to license and regulate drays, carts, wagons, and every other description of two or four wheeled carriages which may be kept within said corporation for hire, and keepers of ferries across the Ohio river to the opposite shore, and in granting such license, it shall be lawful for said council to exact, demand, and receive such sums of money as they may think proper and expedient; *Provided, however*, That the council shall not have power to grant any license for the sale of spirituous liquors within said corporation, under one hundred dollars for each and every tavern, and one hundred and fifty dollars for each and every coffee house; and in no case shall such license be granted, unless petitioned for by two-thirds of the qualified voters within said corporation.

SEC. 23. It shall be the duty of the street commissioner, before entering upon the duties of his office, to take an oath before any officer qualified to administer oaths, for the faithful performance of his duty as street commissioner, and to give bond and security to be approved of by the council, conditioned for the faithful discharge and performance of his duties, as such commissioner; and it shall be the duty of said commissioner to proceed to collect as provided for by ordinance, lay out and expend the tax levied in lieu of the road tax, as provided for in the statutes of Indiana, and specified in the 21st section of this charter, under the control and direction of the council, and shall, at the expiration of his term of office, or at any time when called upon by the council, make a report in writing of his proceedings, to said council.

SEC. 24. Any white male inhabitant over the age of twenty-one years, being a free holder, who shall have resided in said corporation one year next preceding any election for corporation officers, shall be eligible to any office in said corporation.

SEC. 25. All by-laws and ordinances made by the council, shall be in force as soon as a copy thereof, attested by the clerk, shall have been published for ten days in a newspaper published in said corporation, or posted for such length of time in three of the most public places within said corporation.

SEC. 26. That the council of said city shall have full power by ordinance to suppress, and provide for the punishment of any and all acts on the Ohio river in front of said city, which they may prohibit and punish when committed on land, in said city, and to regulate the acts and conduct of boatmen, boat owners, and others, while

lying at the shore in front of said city; and any officer of said corporation who shall wilfully fail or refuse to discharge any of the duties that may devolve upon him by this charter, or by the ordinances which may be passed by said council, or shall act oppressively or corruptly in his office, shall be liable, on presentment or indictment, to be fined in any sum not exceeding fifty dollars.

SEC. 27. It shall be the duty of the president and trustees of the town of Rising Sun, in order to organize under this act of incorporation, as soon as the same shall be published, as hereinafter provided, to appoint three judges, one clerk, and one inspector from among the qualified voters of said corporation, who, when appointed, shall be governed in all things as provided for in section fourteen of this act of incorporation, except that the returns of said election shall be made to the president and trustees of said town, and the same duties shall devolve upon the board of trustees of the corporation of said town, and the clerk of said board, and the president of the same, as are prescribed in section fourteen of this act, in relation to the council, clerk of the council, and the mayor of the said city. And it shall be the duty of the qualified voters of said town to meet at the court house in said city on the second Monday after this act of incorporation shall have been published in the Indiana Blade, to elect the officers of said city, as provided for in section three of this act, and the officers so elected shall hold their offices until the second Monday in September following, and until their successors are elected and qualified.

SEC. 28. It shall be the duty of the clerk, of the president and trustees of the town of Rising Sun, to hand over to the council, when requested, all books, records, papers, furniture, and other property belonging to said corporation.

SEC. 29. This act shall be a public act, and judicially noticed, and liberally construed, by all the courts of this state, and shall take effect and be in force from and after its publication in the "Indiana Blade."

CHAPTER LIII.

An Act to provide for assessing and collecting a road tax upon lands and town lots in Madison County.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in the county of Madison there shall be assessed and collected, for the purpose of repairing, constructing and making roads in said county, the sum of one and a fourth cents on each and every acre of land lying and being within the limits of said county, subject to taxation, and on town lots subject to taxation the sum of ten cents on each one hundred dollars valuation thereof. *Provided*, That the same may be worked out under the direction of the supervisors of road districts in which the lands so charged with tax shall be situate, at the rate of one dollar per day, previous to the last day of December in each year, and the supervisor's receipt therefor shall be received by the treasurer of said county in discharge of said tax, or so much thereof as shall have been worked out in the manner aforesaid. And the moneys arising from and under this act, when collected, shall be paid into the county treasury of said county for the use of the respective road districts therein, and shall be paid over by the county treasurer to the supervisors of the respective road districts in which the same shall have been assessed, and by such supervisor immediately expended upon the roads in his district, under the provisions of this act.

SEC. 2. In all cases when any moneys collected under the provisions of this act for road purposes shall remain in the hands of any supervisor at the expiration of his term of office, it shall be his duty forthwith to pay the same over to his successor in office, taking his receipt therefor.

SEC. 3. Each and every person who shall serve on any board of elections in said county shall be entitled to a credit of one day's work on roads for each day he shall so serve on such board of elections.

SEC. 4. It shall be the duty of the auditor of said county, to make out and furnish to each and every supervisor in said county, on or before the first day of June annually, a list of all lands and town lots subject to taxation within their respective districts, together with the taxes assessed thereon.

SEC. 5. Any auditor, treasurer, supervisor, or other officer of said county, who shall fail, neglect, or refuse to comply with any of the requirements of this act, according to the provisions thereof, or shall fail to expend or account for any and all sums of money by him received under the provisions of this act, shall forfeit and pay for each and every such offence (in addition to such sum or sums as he may have received, under the provisions of this act, and not ex-

pended or accounted for,) a sum not less than two nor more than ten dollars, to be recovered by action of debt, in the name of the State of Indiana, for the use of said county, before any court of competent jurisdiction, which sum shall be applied as other moneys are applied under the provisions of this act.

SEC. 6. All laws and parts of laws coming within the purview and meaning of this act, be and the same are hereby repealed. This act to take effect and be in force from and after its passage.

CHAPTER LIV.

An Act authorizing the sale of certain School Land in the County of Franklin.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the trustees of congressional township eleven, north, range thirteen east, in the county of Franklin, are hereby authorized to sell the south-east quarter of section twenty-seven, in the township and county aforesaid, in the following manner:

1st. To divide said land into such lots as shall insure the best sale.

2d. To sell on the premises, by public outcry, or at the most public place in the township.

3d. To give four weeks' notice by putting up advertisements in five of the most public places in the township, and also four weeks' notice in one of the public papers published in the county where said land lies, stating the time and place where said land will be sold.

4th. The clerk of the board of trustees shall certify to the county auditor the amount each lot was sold for, the number of the lot, and the name of the purchaser, within three days after the sale; and the purchaser, the county auditor, and all parties concerned, shall be governed and bound by the laws of the Revised Statutes of 1843, article 13, commencing at section one hundred and seventy-eight.

SEC. 2. *And be it further enacted*, That if said land is not sold at the time and in the manner above mentioned, that the trustees shall be authorized to sell said land or any part thereof, in the way and manner they shall think best.

SEC. 3. *And be it further enacted*, That the sale made by the trustees of the township aforesaid of a certain piece of land belonging to the township, it being the south-west quarter of the south-

west quarter of section eight, in township eleven, range thirteen to Noah Tryon, be and the same is hereby legalized.

SEC. 4. This act to take effect and be in force from and after its passage.

CHAPTER LV.

An Act to amend an act entitled "An act to establish a State Road on a portion of the dividing line of the Counties of De Kalb and Steuben;" approved January 2, 1847.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the county commissioners of Steuben county, in conjunction with the county commissioners of De Kalb county, shall order the supervisors of their respective counties, along the boundary of whose districts said road shall pass, to open the same to the usual width, in conformity to the 31st section of chapter 16, of the Revised Statutes.

SEC. 2. This act to be in force from and after its passage.

CHAPTER LVI.

An Act to reduce the law incorporating the City of Madison, and the several acts amendatory thereto into one act, and to amend the same.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of the county of Jefferson as is included within the following bounds, to-wit: Beginning at low water mark on the Ohio river, where the subdividing line of fractional section number three, in township number three north, range number ten east, would touch said river if extended south, thence north along said subdividing line to the centre of section thirty-four in township number four north, range number ten east; thence east with the subdividing line of said section number thirty-four, and through section

number thirty-five, in township number four north, range ten east, to the north east corner of the south east quarter of said section thirty-five; thence south with the original land line dividing sections thirty-five and thirty-six in township number four north, range number ten east, one-half mile to the township line dividing townships numbers three and four; thence south on the same line thirteen chains and sixty-four links to a stone monument; thence south sixty-six degrees east, twenty-two chains and forty-four links to a stone planted two hundred feet due north of the north east corner of Benjamin Brushfield's lot; thence south with said Brushfield's east line and in the same direction to the Ohio river at low water mark; thence westwardly with the meanders of said river to the place of beginning, shall be, and hereby is, declared to be a city, and the inhabitants thereof are created a body corporate and politic, with perpetual succession, by the name and style of "The City of Madison," and as such corporate body, and by that name, they shall be capable in law of contracting and being contracted with, suing and being sued, pleading and being impleaded in all courts and places, and touching all matters whatsoever. And also as such shall have the power of purchasing, enjoying, and conveying real and personal estate, and as such may have and use a corporate seal, and the same alter at pleasure, and as such shall have, exercise, and enjoy all the rights, powers, immunities, and privileges which pertain to municipal corporations.

SEC. 2. *And be it further enacted*, That said city shall be divided into nine wards as follows, viz:

1. All the territory between East street and Walnut street extended north and south to the limits of said city, shall constitute the First ward;
2. All the territory between Walnut street and Main street, extended as aforesaid, shall constitute the Second ward;
3. All the territory between Main street and Mulberry street, extended as aforesaid, shall constitute the Third ward;
4. All the territory between Mulberry street and West street, extended as aforesaid, shall constitute the Fourth ward;
5. All the territory between West street and Poplar lane, extended as aforesaid, shall constitute the Fifth ward;
6. All the territory between Poplar lane and Elm street, extended as aforesaid, shall constitute the Sixth ward;
7. All the territory between Elm street and Mill street, extended as aforesaid, shall constitute the Seventh ward;
8. All the territory west of Mill street, extended as aforesaid, shall constitute the Eighth ward;
9. And all the territory east of East street, when extended as aforesaid, shall constitute the Ninth ward: *Provided*, That the common council may at any time increase or reduce the number of said wards, and alter and establish the boundaries thereof in such manner as may be deemed expedient.

SEC. 3. *And be it further enacted*, That all legislative power here-

in granted shall be vested in a common council, the members whereof shall be chosen by a plurality of the qualified voters of said city, by general ticket; each elector shall be entitled to vote for as many candidates for members of the common council as there are wards in the city at the time of such election, or as all the wards in said city may be entitled to at the time of such election; and no ticket containing the name of more candidates residing in any one ward, than said ward is entitled to, shall be counted in estimating the votes cast for common councilman for that ward, but as for candidates for any other office, or for common councilmen for any other ward, such ticket shall be regarded as valid and counted accordingly.

SEC. 4. *And be it further enacted*, That the qualified voters of said city shall, on the first Monday in April annually, elect one common councilman to represent each ward, (until the number of representatives shall be increased by said common council, as hereafter provided,) and the person so elected shall hold his office for the term of one year, and until his successor is elected and qualified; and the said common councilmen, when so chosen and qualified, as hereinafter provided, shall constitute the common council of the City of Madison. No person shall be eligible to the office of common councilman who is not a freeholder of said city, a resident of the ward that he is elected to represent, and has not resided in said city and been a qualified voter one year next preceding his election.

SEC. 5. The common council shall meet at some place provided for that purpose annually, on the second Thursday in April, and after the members elect shall have taken an oath or affirmation, administered by any person authorized by the laws of the state to administer oaths, honestly and faithfully to perform all the duties which shall devolve on them, they shall proceed to elect from their own members a president and vice-president, who, in the absence of the president, shall perform his duties. They shall also elect some competent person, not a member of said common council, to act as clerk. They shall judge of the election and qualifications of their members, adopt rules for their government and for the arrangement of business, keep a correct journal of their proceedings, and may compel the attendance of absent members. And for offensive, improper, and unlawful conduct or neglect of duty, may expel any member by a vote of two-thirds of the members of said common council. When any member removes from the ward that he was elected to represent, his seat in the common council shall be vacated.

SEC. 6. It shall be the duty of the president, when present, or in his absence, of the vice-president, to preside at all meetings of the common council; he shall preserve order and perform all such other duties as devolve on presiding officers of legislative bodies, and shall be entitled to vote on any and all subjects as other members are.

SEC. 7. The common council shall also meet annually on the second Thursday in March, at which time they shall appoint an inspector or inspectors of elections, and appoint the place or places for holding the annual charter election, and at such other times as they by resolution may direct, or as the president, or in his absence a majority of the common council shall appoint; and in all cases of called meetings, notice thereof shall be given by the clerk to each member in writing, either personally served or left at his usual place of residence. If at any meeting of the common council a quorum do not attend at the time and place appointed, it shall be the duty of the clerk to adjourn such meeting to some future day, and give notice thereof as aforesaid, and to make such adjournment from time to time as often as it may be necessary, until a quorum shall attend.

SEC. 8. The common council shall have the custody and management of all the corporate property, real and personal, and all revenues belonging to the city within or without said city, and shall have power for and within the city to make, establish, publish, alter, modify, amend, and repeal ordinances, rules, regulations, and by-laws for the following purposes, and upon the following subjects, to-wit:

1. To restrain and prohibit all descriptions of gaming, and every kind of fraudulent device and practice in said city;

2. To regulate and license, or to refuse to license all taverns, coffee-houses, ale, porter, or beer shops, restaurats, eating houses, or houses for the sale or barter of spirituous or fermented liquors by a less quantity than a quart, or in any quantity to be drunk in or about the retailers house, out-house, yard, or garden, and to prohibit the selling, bartering, or giving away any spirituous or fermented liquor to any person already drunk or who is generally known to be frequently intoxicated, or to any minor, apprentice or servant, without an order from his or her parent, guardian, or master; and for any license to retail spirituous or fermented liquors by a less quantity than a quart the common council may charge any sum not exceeding one thousand dollars for a license for one year, and require the person obtaining said license to give his bond with such security as they may deem sufficient, payable to the city of Madison, in such sum and with such conditions annexed as said common council may fix by ordinance. And it is hereby declared to be unlawful for any person to sell or barter any spirituous or fermented liquors by a less quantity than a quart, or by any quantity to be drunk in or about the retailers house, out-house, yard, or garden, without first obtaining a license from the common council of said city to do so; and for any violation of any ordinance in relation to retailing spirituous or fermented liquors, or in relation to selling, bartering, or giving away spirituous or fermented liquors to minors, servants, or persons who are generally known to be frequently intoxicated, it shall be lawful for the common council to fix penalties not exceeding one hundred dollars for each and every such offence.

3. To regulate and license or refuse to license all places of amusement, theatrical exhibitions, and all exhibitions where money or anything of value is charged or received for admission to the same, and to charge and receive for such license in all the foregoing cases such sum as the common council may deem proper, and annex such conditions in all respects as said common council may choose.

4. To regulate and license, or provide by ordinance for regulating and licensing, all ferries to and from the city across the Ohio river; all carts, drays, wagons, coaches, and all other carriages or vehicles for transporting persons or things kept for hire, or for transporting persons or things in said city, and to punish by suitable penalties all persons who shall, without license, hire out any such vehicle, or transport any person or thing for hire or pay within the limits of said city: To regulate and license pedlars and hucksters, agents for foreign insurance companies, and the keepers of gun powder and other explosive compounds, and in all these cases to charge and receive for such license such sum as the common council may ordain.

5. To establish markets, market houses, and market spaces in said city; to prevent forestalling and regrating, and to make and enforce such rules and regulations as to the time, place, and manner of selling such provisions and commodities as may be sold or exposed for sale in any of said markets, market houses, or market spaces, as they may think will promote the interest, comfort, or convenience of the citizens; to prohibit the sale of fresh meats in small quantities, or any kind of marketing, on market days and within market hours, at any other place than at the proper market house or market space, and to declare any article sold or exposed for sale in any market, market house, or market space contrary to any ordinance, rule, or regulation, forfeited to the city, and authorize the market master or any other person that they may appoint, to seize and sell the same at public outcry forthwith and pay the proceeds into the city treasury.

6. To restrain and regulate the running at large of cattle, horses, swine, sheep, goats, geese, and other domestic animals, by inflicting suitable penalties upon the owner or owners of any cattle, horses, swine, sheep, goats, or geese found running at large contrary to ordinance, or by authorizing the distraining, impounding, and sale of the same for any penalty incurred, and costs of proceeding.

7. To prevent and regulate the running at large of dogs, by inflicting suitable penalties upon their owners or persons who harbor them, where such dogs are found at large or off of the premises of their owners, or of the persons who harbor them; and to authorize the killing of any dog or dogs if found at large contrary to ordinance, or both at the pleasure of the common council.

8. To protect the inhabitants of said city from all malignant and contagious diseases; to cause to be filled up or drained all grounds whereon water has or may become stagnant at the expense of the owners of said ground, whether such stagnant pool has been pro-

duced by the natural formation of the ground or by any useful public improvement.

9. To apprehend and punish all vagrants, drunkards, night walkers, street beggars and prostitutes, and idle persons, when found loitering about the streets, lanes, alleys, wharves, groceries, or other public places without employment, and all persons whatsoever disturbing the peace and good order of the city: all such persons may be apprehended on view, without a warrant, by the marshal or any police officer, and immediately taken before the mayor, or in case of the absence of the mayor from his office, or if such arrest be made after night, the person so apprehended may be kept in custody or committed to the watch house or jail until the mayor shall return to his office or until morning, but in no case shall any person be held in custody before trial longer than nine o'clock of the day succeeding his arrest, except when such person shall refuse or neglect to give satisfactory bail for his appearance when it becomes necessary to continue his trial for material testimony.

10. To prohibit all exhibitions of natural or artificial curiosities and all shows, exhibitions, or amusements whatsoever, which in the opinion of said common council are demoralizing to society or calculated to detract from the peace and good order of said city.

11. To suppress and restrain disorderly houses and groceries, houses of ill fame, billiard tables, nine or ten pin alleys or tables, and ball alleys, and to authorize the demolition and destruction of all instruments of gaming.

12. To prevent horse racing and immoderate riding or driving in the streets, lanes, or alleys of said city, and the leaving of any horse, horses, or teams in any of the streets, lanes, or alleys, or on any open ground, or on any wharf within the limits of said city, without said horses or teams being so secured as to prevent it or them from running away.

13. To prevent cruel treatment of animals by beating, wounding, or otherwise maltreating them.

14. To prevent riot, noise, disturbance of the peace, disorderly assemblies, the disorderly ringing of bells, blowing of horns or bugles, beating of drums, whooping, hallowing, loud, boisterous, profane, or obscene talking or singing, and all other noises whereby the peace or quiet of any of the inhabitant of said [city] may be disturbed, or which is calculated to produce such disturbance.

15. To regulate the general police of said city, to establish a city watch, define its duties and prescribe its powers.

16. To pass and enforce ordinances for the prevention and punishment of all disorderly conduct, or of any practice, act or device not herein specified, which is calculated to disturb the peace, or in any way interfere with the comfort of any of the inhabitants of said city.

17. To regulate the streets, lanes, alleys, and side-walks, and all wharves in said city, and all improvements of the same by grading, gravelling, paving, or otherwise; and all grades of streets,

lanes, alleys, and wharves, and the width of all sidewalks, the width and depth of all gutters, and all other matters relating to the grade, form, or width of the streets, lanes, alleys, side-walks, gutters, or wharves, shall be fixed by the city surveyor, under the direction of the common council, and when so fixed and approved by the common council, shall be recorded by the said city surveyor, together with such profiles and all other matters as may be necessary to explain the same in a book provided for that purpose: and the common council shall have exclusive control of said streets, lanes, alleys, side-walks, gutters, wharves, and all market houses, market spaces, and public grounds within said city and shall cause the same to be kept open, clean, and in good order.

18. To prevent the encumbering of the streets, lanes, alleys, side-walks, or wharves, with carriages, carts, boxes, lumber, timber, fire-wood, bricks, stone, merchandize, or any other substance or material whatsoever.

19. To prevent the rolling of hoops, playing at ball, long bullets, or marbles, using fire crackers, flying kites, firing guns, pistols, and all other fire arms or fire works, or any other thing or practice which in the judgment of said common council has a tendency to annoy or endanger the property or person of any of the inhabitants of said city.

20. To compel all persons to keep the snow, ice, and dirt from the side-walks bordering on their property, and to cleanse and keep clean and open the gutters and streets opposite the premises by them owned or occupied.

21. To appoint overseers of the highways within said city, and collect in money any sum not exceeding one dollar annually, as a road tax from each and every person liable by law to pay a road tax, or to labor on the highways, as also the road tax which may be due on lots and lands within the limits of said city, by any law which now is, or hereafter may be in force in this state; and the collector of Jefferson county is hereby authorized and required to pay over to the treasurer of the city of Madison, all moneys that may have been heretofore, or that may hereafter be collected by him on account of any road tax levied on any property, or person, within the limits of said city.

22. To guard against damage by fire, to organize fire companies, purchase fire apparatus, build engine houses, and regulate and govern said companies, and disband them at pleasure, and regulate the conduct of the citizens in relation thereto.

23. To prevent injuries to the inhabitants of said city, from thieves, robbers, burglars, and all other person violating the public peace.

24. To declare what shall be deemed nuisances within said city, and to abate and remove the same, or punish by suitable penalties the person, or persons causing, or continuing the same, or both abate and punish at discretion.

25. To compel the owner or occupant of any peice of ground,

grocery, cellar, tallow chandlery, soap factory, tannery, slaughter-house, stable, barn, privy, sewer, or other out-house or place, to cleanse the same from time to time, as often as it may be deemed necessary for the health and comfort, or convenience of any portion of the inhabitants of said city, and to remove, or abate, or otherwise destroy the cause which renders such house or place unhealthy or uncomfortable.

26. To prohibit any person from bringing, or depositing, or having within the limits of said city, any dead carcass or other unwholesome substance, and to require the removal or destruction by any person who shall have the same upon or near his premises by his own act or consent, of any such substance, or any putrid or unsound beef, pork, fish, hides or skins of any kind, or other unsound or unwholesome substance whatsoever; and on default of such person to authorize the removal or destruction thereof, by the proper officer of said city.

27. To direct the location of all powder houses, the manner of keeping and conveying of gun powder and other explosive substances, and of using lights at night in barns, stables, and other out-houses.

28. To direct the location of slaughter-houses, tallow Chandler shops, soap factories, and other houses that may be an annoyance to the health or comfort of any of the inhabitants of said city, and to prohibit the erection or continuance of any such establishment within said city.

29. To regulate and determine the time and place of bathing in the Ohio river and in Crooked creek.

30. To regulate and restrain runners and carriers for boats, stages, or railroad cars, and to license porters.

31. To survey, mark, and establish the boundaries of said city.

32. To regulate the burial of the dead, purchase, and provide burying grounds, hearses, and other things necessary to burial, and appoint sextons, and prescribe their duties.

33. To direct the keeping and returning of bills of mortality, and to impose penalties on physicians, sextons and others, for any default in the premises.

34. To regulate gauging, the place and manner of weighing and selling hay—of selling and measuring wood, lime, and lumber of all descriptions, and weighing or measuring coal, and to appoint suitable persons to superintend and conduct the same, and to provide for their compensation in such manner, as said common council may deem equitable and just.

35. To regulate the weight and quality of bread and to provide for the seizure and forfeiture of bread baked contrary thereto.

36. To provide for the watering of said city, and to make and regulate pumps, wells, cisterns, and reservoirs, and to prevent the unnecessary waste of water.

37. To erect and organize a work-house in Jefferson county; and any person who shall fail or neglect to pay any fine or costs im-

posed on him or her for the violation of any ordinance, by law, or police regulation of said city, instead of being committed to the city jail, or jail of Jefferson county, may be committed to the work-house, until such fine and costs be fully paid; and until a work-house is erected and organized, a chain-gang may be formed, to which any such delinquent may be attached; and every person so committed to said work-house, or attached to said chain-gang, shall be required to work for the city at such labor as his health and strength will permit, within or without said work-house, not exceeding ten hours each day; and for such work or labor the person so employed shall be allowed fifty cents per day, exclusive of his board, for each day's work, which amount shall go toward paying such fine and costs.

38. To take stock in any chartered company for making a road or roads to said city, or for supplying said city with pure, wholesome water: *Provided*, That no such stock shall be subscribed on the part of said city, unless it be on the petition of two thirds of the citizens of said city who are freeholders of the same, distinctly setting forth, the company in which said stock is to be taken, and the number of shares to be subscribed: *And provided, also*, That in all cases where stock is taken, the common council shall have power to borrow money, and levy a tax on lots and lands within said city, including improvements, for the payment of said stock, such levy to be exclusive of, and in addition to the levy hereinafter authorized, "for the purpose of revenue."

39. To diminish or increase, or at any time alter the number or limits of the wards of the city, or to increase or diminish the number of representatives from each ward, (provided that each ward shall always be entitled to at least one representative,) two thirds of the common council concurring therein; but no such change in the wards of said city, shall affect the present council, or vacate the seat of any member for his present term, or authorize the election of a member for a new ward, or an additional member for an old ward, until the next annual election.

40. To borrow money for the use of said corporation.

41. To lay out, open, and mark new streets, lanes, alleys, highways and wharves, and the same to discontinue, and to contract, widen, altar, or discontinue any street, lane, alley, or wharf now made, or hereafter to be made in said city, subject to the rules and regulations hereinafter contained.

42. To regulate, permit or prohibit the selling at public auction in the streets, stores, or elsewhere within the limits of said city, horses, and all other domestic animals, merchandize, and all other kinds of property either real, personal or mixed, and to appoint and license auctioneers, and to require said auctioneers to give bond for the honest discharge of their duties in such penalty, and with such conditions, as said common council may think proper, and to require said auctioneer to pay for said license, such sum as said council may fix by ordinance, and such amount in addition thereto on all

sales at auction, not exceeding two per centum on the amount thereof, as said common council may fix by ordinance: *Provided*, That a specific amount may be required on the sales of horses, cattle, or any live stock, without regard to any per centum on the amount for which such horses, cattle, or other live stock may be sold.

43. To fix the amount of wharfage, that it shall be lawful to charge and receive at any public or private wharf on the Ohio river, within said city, and to regulate the same.

44. To levy and collect a revenue for the use of said city, in the manner prescribed by this act.

45. To establish a board of health for said city, and invest it with such power, and impose upon it such duties, as shall be necessary to secure said city and the inhabitants thereof, from the evils and calamities of contagious, malignant, or infectious diseases—provide for its proper organization, and the election or appointment of the necessary officers thereof, and make such by-laws, rules and regulations for its government and support as may be required for the prompt performance of its duties, and the lawful exercise of its powers.

46. To regulate the construction of chimneys, fire places, hearths and stove-pipes, and the manner of setting stoves so as to prevent damage from fire, and to require persons to keep chimneys and stove pipes clean, by sweeping or burning as often as may be necessary to prevent their taking fire.

47. To prevent or regulate the erection of wooden buildings in said city, or in such parts thereof as said common council may think proper.

48. To establish and regulate public pounds.

49. To erect market houses, a council house or city hall, a hospital, a house of correction, and a city jail, and to pass and enforce such ordinances as they may deem expedient for the regulation and government of the same.

50. To establish and support common schools in said city, and to purchase ground and erect houses thereon, for the accommodation of such schools; *Provided*, That a certain per cent. of the general levy shall be appropriated at the time said levy is made, which shall be kept as a separate fund, to be called "the school fund," and shall not be appropriated or used for any other object, and no other appropriation shall be made during the financial year for that object. *And, Provided*, Further, that no such appropriation shall be made, nor shall any application of any funds belonging to said city for gratuitous instruction in any school be made, but with the concurrence of two-thirds of the common council.

51. To provide for lighting the streets and erecting lamps thereon.

52. To provide for the appointment of all officers, agents, and servants of the corporation not otherwise provided for.

53. To provide for the construction and repair of all side-walks

and curb-stones at the expense of the owners of the ground fronting thereon.

54. To establish standard weights and measures, and regulate the weights and measures to be used in the city.

55. To appoint all officers and agents they may deem necessary to carry into full effect the powers by this act conferred; prescribe their powers and duties, regulate and establish their salary, fees and pay, and require them, or any of them, to give security for the faithful discharge of their duties; and all such officers and agents shall hold their offices during the pleasure of said common council.

56. To pass and enforce all ordinances that may be necessary to carry into execution all the powers herein granted, and to revoke or suspend any license for any violation of any ordinance, by-law, or police regulation, and to impose fines, penalties and forfeitures, not exceeding fifty dollars, (except as hereinbefore provided,) and to provide for collecting the same.

57. To light with gas or oil all the streets, lanes, alleys, market houses and market places, within said city, or so much, or so many of them, as they may, by ordinance, designate, and appropriate money out of the city treasury to defray the expenses thereof; but no such ordinance shall be passed by a vote less than two-thirds of the common council.

58. To authorize the marshal of the city, and it shall be lawful for him, with the necessary force, to enter any house or place where he may be informed, and has reason to believe, that any description of gaming, or any other unlawful practice is permitted, and seize all persons there found gambling, or engaged in any such unlawful practice, and commit them to the watch-house, or take them before any magistrate who is legally authorized to take cognizance of the offence.

SEC. 9. *And be it further enacted*, That said common council shall not make, nor cause to be made, without a vote of three-fourths of the common council, any contract for work, the estimated value of which shall exceed fifty dollars, without first causing five days notice of the same to be given, by advertising in at least one newspaper, published in the city, that proposals will be received for the performance of said work. And the said common council shall make, or authorize to be made, a contract to do said work with the person who shall propose to perform the same for the lowest price, upon such person giving bond to said city, with security, to be approved by said common council, or by any committee appointed by them for the purpose of receiving such bond, that the work will be faithfully performed, according to the contract; and, in case such person shall fail within such reasonable time, as may be fixed by said council, to give the bond as aforesaid, then the contract may be claimed by the next lowest bidder, upon the same conditions and limitations; and so on, until said work is contracted for, with the person or persons who will undertake to do the same for the lowest price: *Provided*, That nothing herein shall be so construed as to

prevent the said common council, in any case, from advertising for, and accepting new proposals.

SEC. 10. *And be it further enacted*, That all ordinances passed by said common council, in pursuance of this act, shall be read three several times, and upon the final passage the yeas and nays shall be taken, and entered of record upon the journal by the clerk. And all ordinances, so passed, shall be signed by the presiding officers and published in some newspaper of said city; and no proof whatever shall be necessary of the publication of any such ordinance, unless the fact of such publication shall be put in issue by a special plea, verified by the oath or affirmation of the party pleading the same; and, upon the trial of any such issue, the affidavit of the printer or publisher of such newspaper, to the fact of such publication, taken before any officer authorized to administer oaths, or the production of any newspaper, printed and published in the city in which such ordinance is printed, shall be sufficient proof of the fact of publication.

SEC. 11. Obedience to, and observance of all rules, ordinances, by-laws, and police regulations, made in pursuance of this act, shall be enforced (except where herein otherwise provided) by imposing penalties on the person or persons violating the same; to be recovered, with costs, in an action of debt, in any court of competent jurisdiction.

SEC. 12. *And be it further enacted*, That all prosecutions for a violation of any of the ordinances, by-laws, or police regulations of said city, shall be in the corporate name of said city, and upon conviction, it shall be the duty of the court trying the case, to assess such fine upon the person convicted, as may be authorized by the ordinances of said city; and in case of failure to pay forthwith, or secure the payment within ninety days, of the fine so assessed and the costs of prosecution, to commit to prison, until the said fine and costs are paid, or replevied, as aforesaid: any law of the State of Indiana to the contrary notwithstanding: *Provided*, That the said court may commit upon mesne or final process, to the work-house or house of correction, in such cases as may be provided for by the ordinance of said city.

SEC. 13. *And be it further enacted*, That the marshal, policemen, and watchmen of said city, the sheriff of Jefferson county, and his deputies, or any constable of Madison township, may, upon view, arrest any person or persons who may be guilty of a breach of any of the ordinances of said city; and they may, upon information, without affidavit, procure process for the arrest of any person or persons, who may be charged with the breach of any of the ordinances of said city.

SEC. 14. *And be it further enacted*, That no person shall be an incompetent judge, witness, or juror, by reason of being an inhabitant, citizen, or freeholder of said city, in any action or prosecution in which said city is a party or interested.

SEC. 15. *And be it further enacted*, That the first process to be

issued by the mayor, in every case, for an alleged violation of any ordinance, by-law, or police regulation, shall be either a warrant or summons, at the option of the mayor: and in case of conviction, judgment may be entered that the person stand committed until the fine or penalty and costs be paid or replevied, or judgment be entered and execution enforced, as in ordinary case or cases of debt.

SEC. 16. *And be it further enacted*, That there shall be a mayor who shall be elected by a plurality of the legal voters of said city on the first Monday in April, in the year one thousand eight hundred and fifty, and every third year thereafter on the first Monday in April, to hold his office for the term of three years, and until his successor is elected and qualified. No person shall be eligible to the office of mayor who is not a freeholder in said city, and who has not resided in said city and been a legal voter thereof two years next preceding his election.

SEC. 17. *And be it further enacted*, That there shall also be elected on the first Monday in April, after the taking effect of this act, and on the first Monday in April of each succeeding year, by a plurality of the qualified voters of said city, a marshal, assessor, collector and treasurer of the city of Madison, to serve for the term of one year and until successors are elected and qualified, and the said marshal, assessor, collector and treasurer, shall each, before entering upon the duties of his office, enter into a bond in such amount and with such security as the common council may direct and approve, conditioned for the diligent and faithful discharge of his duties, and take an oath faithfully and honestly to perform his duties. *Provided*, That the common council may remove any of the aforesaid officers who may prove incompetent or who knowingly and wilfully neglect or refuse to perform the duties assigned them by this act, or in any ordinance passed in pursuance thereof; but the concurrence of three fourths of the common council shall be necessary to such removal. All vacancies occasioned by such removal, by refusal to qualify or by any other cause whatsoever, shall be filled by a majority of said common council.

SEC. 18. *And be it further enacted*, That it shall be the duty of the mayor, marshal, assessor, collector and treasurer, and of each councilman to present to the clerk at the first meeting of the common council after his election, or at the first meeting of said common council that he may attend, his certificate of election which with the endorsement of qualification thereon, shall be spread at full length upon the records.

SEC. 19. In case of the death, removal, resignation, or refusal to qualify of any person elected to the office of mayor or councilman, the vacancy so occasioned shall be filled by a special election, the day and place of holding which shall be designated by the common council, and shall be conducted in all respects as annual charter elections, except that any election to fill a vacancy occasioned by the death, resignation or refusal to qualify of any person elected to fill the office of common councilman shall be held in the ward in

which such vacancy occurs, and at such time and place in said ward as said common council shall appoint.

SEC. 20. It shall be the duty of the mayor to be vigilant and active at all times, in causing the laws and ordinances of said city to be kept in force and duly executed, to inspect the conduct of all subordinate officers, and as far as in his power to cause all negligence, carelessness, and positive violation of duty, to be prosecuted and promptly punished; he shall keep the public seal of said city and sign all commissions, licenses and permits which may be granted by or under the authority of the common council. He shall keep an office in some convenient place in said city, and shall have power to take and certify, under the seal of said city, the proofs and acknowledgment of all deeds for the conveyance in anywise of real estate, or other instruments of writing, according to law and usages in such cases; and all acknowledgments taken and certified by the mayor, under the corporate seal, shall be good in every court and county in the state without further authentication. He shall perform such other duties, and exercise such other powers as from time to time may devolve upon him by the ordinances of said city, and generally do and perform all such other duties and exercise such other powers as pertain to the office of mayor. He shall also be a judicial officer, and in his judicial capacity shall have exclusive original jurisdiction in all cases for the violation of the ordinances of said city, and from any judgment rendered for the violation of any by-law, ordinance, or police regulation, for a larger sum than five dollars, exclusive of costs, the defendant may appeal, at any time within ten days thereafter, to the circuit court by giving bond to said city, with at least one freehold security, acceptable to said mayor, in a reasonable penalty conditioned for the payment of the debt, damages, or penalty, and costs that shall be recovered against him in said circuit court, which appeal, when perfected, by giving bond as aforesaid, shall entitle the party appealing to the same rights and privileges, subject to the same conditions, restrictions, and limitations as by law pertain to parties appealing from the judgment of justices of the peace to the circuit court; and for the due and efficient exercise of the powers herein and hereby vested in him, the said mayor shall have power, and it shall be lawful for him, to issue all such writs as may be necessary to enforce the due administration of right and justice throughout said city, and for the lawful exercise of his jurisdiction agreeably to the usages and principles of law; and all process, mesne or final, issued by him shall be in the name of said city, and shall be attested by the seal of the corporation, and shall be directed to the marshal of the city or to any constable of Madison township, either of whom, when necessary in criminal cases, or for a violation of the ordinances of said city, may execute the same in any part of Jefferson county. He shall, ex-officio, be a conservator of the public peace, and a justice of the peace, and within said city shall exercise civil and criminal jurisdiction in all cases in same manner, and to the same extent,

as justices of the peace in their respective townships; and from his judgments, when acting as a justice of the peace, an appeal may be taken to the circuit court in like manner and under like circumstances and conditions as from justices of the peace. He shall give bond, payable to the State of Indiana, in like manner as justices of the peace are, or at any time may be required to do, in the penal sum of five thousand dollars, and shall be entitled (in all cases when acting as a justice of the peace) to the same fees for his services, but in all prosecutions for violations of any ordinance, by-law or police regulation of said city, he shall tax up the fees that justices of the peace are entitled to in criminal cases against each and every person who may be convicted by or before him in any such prosecution, and payment thereof shall be enforced in the same manner as the payment of fines are in other cases. And the mayor shall semi-annually in each year pay all such costs into the city treasury, so far as they shall have been collected. He shall also receive a salary, to be paid out of the city treasury, to be allowed by the common council in the month of April every year, for the year's salary succeeding the same, to be paid quarterly as the services of said mayor may be rendered. He shall keep a docket like as justices of the peace are required to do, and in case of his absence from the city for the space of five days, or in case of his inability to discharge his official duties in consequence of sickness or other unavoidable cause for a like period, shall, prior to his departure in the first case, or at the expiration of five days in the second case, (if his inability still continues) deposit his docket, or cause it to be deposited, with any justice of the peace within said city; and such justice shall, until the mayor returns in the first case, or the removal of his inability in the second case, be invested with all the powers and authority of said mayor, and may act upon his docket in the prosecution of suits, and perform all his official duties to the same extent, and in the same manner, and be entitled to the same fees, perquisites, and emoluments as if he were the duly elected and regularly qualified mayor. And in case of vacancy in the office of mayor, by death, resignation, or from any other cause, it shall be lawful for the common council to order the docket of said mayor to be placed in the hands of some justice of the peace in said county, and from the time said docket shall be placed in the hands of said justice of the peace, he shall be invested with all the judicial powers of the mayor, and continue to serve until such vacancy is supplied.

SEC. 21. The city marshal shall be the chief ministerial officer of the mayor, and as such invested with all the powers of a sheriff and constable, entitled to the same fees for the service and execution of all writs issued to him by the mayor in cases for the violation of ordinances, by-laws, or police regulations of the city, as constables are entitled to receive in criminal cases; and in other cases such fees as constables are entitled to in like cases. It shall be his duty to suppress all riots, disturbances, and breaches of the

peace, to apprehend all riotous, disorderly persons, and disturbers of the public peace in said city, and all persons in the act of committing any indictable offence against the laws of the state, or fleeing from justice after having committed such offence, and him, her, or them forthwith to take into custody, and bring before the mayor for examination, and in case of resistance, may call to his aid and command the assistance of all bystanders and others in the vicinity; he shall perform such other and further duties as may, from time to time, be required of him by the common council, and may appoint one or more deputies, and at pleasure dismiss or discharge them from office, being always responsible, on his official bond, for the correct discharge of their duties.

SEC. 22. For the purpose of revenue, the common council shall have power to levy an *ad valorem* tax not exceeding one half of one per centum, upon real estate, including improvements, situate within the corporate limits of said city; and also a like tax upon all personal property belonging to the residents of said city, or that may be in the possession of said residents, including merchandise, bank stock, insurance stock, railroad stock, steamboats, household furniture, horses and carriages, money at interest, and all other kinds of personal property, whether in possession or in action; *Provided*, that each family shall be allowed to retain, as exempt from taxation, one hundred and fifty dollars' worth of household furniture. Said common council shall also have power to levy and collect a poll tax, not exceeding fifty cents, from each and every male inhabitant between the ages of twenty-one and fifty years, and a road tax, not exceeding one dollar, from all male inhabitants between the aforesaid ages, and also a specific tax to such an amount as they may deem expedient on all hogs, dogs, and bitches owned, fed, or harboured by any of the inhabitants of said city.

SEC. 23. It shall be the duty of the assessor to proceed, immediately after his election or appointment, and qualification as hereinbefore provided, to make out a full and fair list of all such persons and property as he may be directed to assess, as far as practicable, in alphabetical order, setting opposite to the name of the person or persons the lot or lots, piece or parcel of ground, particularly describing it, by him, her, or them owned or claimed, and also the value thereof; also the number of polls, and the aggregate value of each person's personal property subject to be taxed, as in this act provided, and add up the sum total of the whole amount of said taxable property by him listed; and for the purpose of enabling the assessor or assessors to ascertain the value of each person's personal property subject to taxation, it shall be the duty of said assessor or assessors to require each and every person owning taxable property, either real or personal, in said city, to furnish him or them a list of all his, her, or their real property, and to state, under oath or affirmation, (which all assessors are hereby authorized to administer), the just and fair value of his, her, or their said property, both real and personal, specifying the value of each separate

lot or piece of land, if he, she, or they have more than one, which said valuation shall be final and conclusive for the purpose of assessing and levying taxes thereon by said city; and upon the failure or refusal of any such person to furnish such list of his, her, or their real property, or to state the value of his or her property, both real and personal as aforesaid, when required so to do, it shall be the duty of the assessor forthwith to proceed and search out, value, and assess the real and personal property belonging to each and every person so failing or refusing to furnish a list, or to state the value of the same, as aforesaid, from the best information he may be able to obtain, and each and every such valuation and assessment made by any assessor as aforesaid shall be final and conclusive, except as to absentees and non-residents, but such absentees and non-residents may apply to the common council for the correction of any such assessment or valuation of their property by the assessor, and the common council shall do what to them may seem right in the premises.

SEC. 24. It shall be the duty of said assessor or assessors to complete the assessment roll or rolls, and return the same to the common council, by the first Monday in July succeeding his or their appointment; but in case of the inability, failure, or refusal, from any cause, of the assessor or assessors, or either of them, to make or complete the assessment roll or rolls within the time herein prescribed, the common council shall have power to appoint some suitable person or persons either to make or complete such assessment roll or rolls, as the case may require; and for that purpose said common council may extend the time for making or completing said roll or rolls, but the time in no case shall be extended beyond the first day of September next succeeding the time when the same should have been completed; and in case of every such extension of time a like extension of time shall be allowed to the clerk to make or complete the duplicate of such assessment roll or rolls, which, when made or completed, shall, together with his certificate, under his hand, setting forth what property for that year was to be taxed under the order of the common council, and at what rate; to all of which shall be added by the mayor a precept, under the seal of the corporation, directed to the collector of said city, commanding him that of the goods and chattles of all and every person named in said tax list, and all such persons whose names may be added thereto by said collector, and assessed by him, he cause to be made by distress and sale the amount of the tax charged against him, her, or them on said duplicate, on account of a poll, personal property, or any specific tax; and that of the particular lot, tract, or parcel of land in said list described, he make the tax charged thereon by levy and sale, or by sale of so much thereof as may be necessary to pay said taxes, and any other taxes for which it may be liable by this act, and the costs and charges of such sale and advertising; and in all cases where goods and chattles cannot be found out of which to make any tax on account of a poll, per-

sonal property, or specific tax, to make said taxes out of any of the real estate of the delinquent by adding the amount to the tax on any such real estate, and make return of his doings by the first Monday in March succeeding his appointment; and if no goods or chattles can be found out of which to make the tax charged against any person for or on account of a poll, personal property, or any specific tax, it shall be lawful for the collector to add the amount of such tax to any tax levied upon any lot, tract, or parcel of land belonging to, or claimed by, or listed to the person against whom such tax stands charged, and sell said lot, tract, or parcel of land, or so much thereof as may be necessary to pay the tax charged against said lot, and also the tax on account of such poll, personal property, or specific tax, and the collector's certificate to the purchaser shall state for what tax or taxes said lot, tract, or parcel of land was sold.

SEC. 25. In any case where the assessor or assessors are unable to find the name of the true owner of any lot, tract, or parcel of land, or any person claiming the same, it shall be lawful to list it to "owner unknown," and the sale of any lot, piece, or parcel of ground thus listed and described as hereinbefore provided, shall be valid as though it had been listed to the owner or person claiming it.

SEC. 26. The common council shall have power to appoint an agent on behalf of said city, who shall have full power and authority, for and on behalf of said city, to bid at any sale of lots or lands by the collector of said city for the non-payment of taxes, the amount of all unpaid taxes, costs, and charges remaining against any lot, piece, or parcel of land, and for which the same may be offered for sale by said collector; and if no higher bid be offered for any such lot, tract, or parcel of land, the collector shall receive and take the bid of any such agent as the bid of said city, and shall make out and deliver to the mayor of said city a certificate in each and every case where said city may become the purchaser, as aforesaid, which certificate shall state that said city became the purchaser, and shall, in other respects, be similar to that which is required in the case of sales by said collector to individuals, and shall have the like force and effect, and entitle said city to a like certificate from the treasurer after the expiration of the time for the redemption of such lot, piece, or parcel of ground; and said city shall have power to use, lease, transfer, sell, convey, or otherwise dispose of all such real estate so purchased, as aforesaid, and all remedies for the recovery and protection thereof, as in the case of purchasers thereof by private individuals.

SEC. 27. After the return of said assessment roll or rolls, and by the third Monday in July in each year, if the said roll or rolls shall have been returned in time, the said common council shall fix and determine the per centum or rate of tax to be levied on real and personal property, stocks and money at interest, and what

amount, if any, of poll tax and specific tax shall be levied for the current year.

SEC. 28. Instead of having but one assessor, it shall be lawful for said common council to divide the city into two or more districts, and for the electors of said city to elect an assessor for each district, and the assessors so elected shall be governed, in all things, by the same rules as hereinbefore laid down relating to assessors, and the common council shall fill any vacancy occasioned by the removal, death, or refusal to qualify of any assessor, in the same manner that is prescribed in the seventeenth section of this act for filling vacancies by said common council.

SEC. 29. After the return of said assessment roll or rolls, and by the third Monday in August annually, the common council shall cause their clerk to make out a full, fair, and complete copy and transcript of the persons and property named in said assessment roll or rolls, with the amount of taxes charged against each, in all cases setting opposite to each lot, tract, or parcel of land, the particular tax assessed thereon.

SEC. 30. All taxes upon real estate shall, from the time the tax list is made out and completed, be a lien thereon to the same extent with the judgment of a court of record, and shall have a preference of all private charges, and all taxes on personal property shall have preference of all other private demands.

SEC. 31. By the third Monday in August annually, said tax list shall be completed (except in cases herein before provided for) and placed, by the mayor, in the hands of the collector, whose duty it shall be to proceed forthwith to the collection of the taxes therein contained.

SEC. 32. The collector shall not be required in any instance to make a demand of the taxes from the person charged therewith, but may, in his discretion, do so; and if any person charged with a poll tax, tax on personal property, or any tax except on real estate, shall fail when called on for his, her, or their taxes by said collector, to pay the same, it shall be lawful for said collector to make the same by seizure of the goods and chattels of such defaulter forthwith.

SEC. 33. It shall be lawful for the collector, and it is hereby made his duty to require each and every person whom the assessor may have failed or omitted to call on for a list of his taxable property, and a statement of the value thereof as said assessor is herein before required to do, to furnish him, the said collector, a list of his, her, or their property, subject to taxation for city purposes, and to state the just and fair value thereof under oath, which oath the collector is hereby authorized to administer; and upon the failure or refusal of such person to furnish the collector with a list of his, her, or their taxable property and the value thereof, to proceed to value the same, in the same manner that the assessor is required to do in like cases. And in all cases where the said collector shall be informed of any real estate within said city subject to be taxed for

city purposes, the owner of which is not known to him, he shall list and value the same, and charge it on the duplicate to "owner unknown."

SEC. 34. After the first Monday in January and before the first Monday in March, annually, it shall be the duty of the collector to proceed to collect the taxes assessed on real estate, either by seizure and sale of the goods and chattels of any person owing the same, or by a sale of the lot, piece, or parcel of ground on which the taxes remain unpaid, or so much thereof as may be necessary to pay the taxes for which it is liable, and expenses of sale; and if no goods and chattels are found out of which to make any taxes charged against the person or persons owning such real estate, then the said collector shall, as hereinbefore authorized, add such tax to the tax charged against any piece, tract, or parcel of land, and sell the same, or so much thereof as may be necessary to pay the taxes on said land, and all other taxes against the owner thereof, (except taxes on other real estate) together with all costs that may have accrued or to accrue in advertising, selling, and conveying the same. Six days notice of the time and place of sale of goods and chattels shall be given by the collector, by written notice, stuck in three of the most public places in said city, or by advertising in some newspaper printed and published in said city. And all goods and chattels so sold by the said collector shall be delivered to the purchaser, on the purchaser paying him the amount bid by the purchaser for the same; and the said personal property when so purchased, paid for, and delivered, shall be and remain the property of the purchaser, and shall not thereafter be redeemed. And three weeks notice shall be given of the time and place of the sale of lots or lands, by advertisement in some newspaper printed in said city; *Provided*, That nothing herein contained shall be so construed as to operate in any such manner as to interfere with the lien which the State of Indiana or the county of Jefferson may, at any time, have upon any goods and chattels, lands or tenements, of any person in said city for the non-payment of taxes due said state or county.

SEC. 35. In selling lots and lands, the collector shall sell the least possible quantity that any bidder will take and pay the amount of taxes for which it is offered to be sold, and costs, and when any bidder shall offer to take less than the entire lot or tract, it shall be the duty of the collector at such sale to designate and declare in what manner the division shall be made; and having made a sale to any person of any lot or tract of land or part thereof, it shall be the duty of the collector to make, seal, and acknowledge, before some competent authority, a certificate of the same to such purchaser.

SEC. 36. It shall be the duty of the collector, immediately after the sale of any lot, lots, or lands, to make return of the same to the treasurer of said city, distinctly stating the lot or tract of land sold, the name of the purchaser, the day of sale, and the amount of taxes and costs for which it was sold; and any owner or claimant of any lot or tract of land so sold as aforesaid, his agent or attorney may

redeem said lot or tract of land so sold as aforesaid, his agent or attorney may redeem said lot or tract of land at any time within two years from the day of said sale, by paying and depositing with the treasurer aforesaid, for the use of the purchaser, the full amount of the taxes and costs so paid, as aforesaid, together with interest on the full amount of said taxes and costs, at and after the rate of one hundred per centum per annum from the day of such sale to the day of making such redemption. After the expiration of two years from and after such sale, it shall be the duty of said treasurer, on the application of any person who may have purchased any lot, tract, or parcel of land at such sale, or his heirs or assigns, holding a certificate of the purchase of any lot or tract of land so sold as aforesaid, which has not been redeemed, to endorse on the back thereof, his certificate of the fact that the lot or parcel of land in said certificate specified, has not been redeemed; which certificate of the treasurer shall be by him acknowledged before some competent officer, and such certificate of the collector made and acknowledged as aforesaid, and endorsed and acknowledged as aforesaid, shall enure to and vest in the purchaser, his heirs and assigns, from the day of sale, an absolute and indefeasible estate in fee simple in the lot or lands therein described, and shall be conclusive evidence that the levy, assignment, description, advertising, sale, and every thing relating to the levy, sale, and conveyance, was and is regular and in conformity to the provisions of this act, and shall not be annulled or set aside in any court whatever, except by proof of one or more of the following facts, viz: 1st, that the lot, tract, or parcel of ground in said certificate named, was not liable to be taxed under the authority of this act; 2d, that the taxes charged thereon, and for which it was sold at the time mentioned in said certificate, were actually paid to the collector before the sale, or were tendered to him and were refused; 3d, that the said premises were redeemed within two years from the day of sale by depositing with the treasurer for the use of the purchaser, his heirs, assigns, executors, or administrators, the taxes, costs, charges, and per centage thereon.

SEC. 37. At any time before the sale of any goods and chattels, lands and tenements, the owner or claimant may release the same by paying the taxes due thereon, and costs so far as costs have accrued, and whenever any balance from the sale of any goods and chattels, over and above what is sufficient to pay the taxes and costs, shall remain in the hands of the collector; it shall be his duty to pay the same over to the owner of such goods and chattels on his demand. It shall be the duty of the collector, on or by the first Monday in March in each year, to pay over all moneys collected by him to the treasurer, and make a full and final settlement of his collectorship, and a return of the tax-list and precept to him, with a full account of his doings in the premises; in which return shall be stated fully and distinctly the aggregate amount of money by him collected and received, from the duplicate tax list, and the amount remaining unpaid on said list, with the names of the par-

ticular defaulters, and the cause of failure to enforce payment from such delinquents, as commanded in said precept, the truth of which return shall be verified by the affidavit of said collector; and to the tax-list of any succeeding year, it shall be lawful to add any taxes remaining unpaid in any preceding year, which shall be collected in like manner as if assessed in each year.

SEC. 38. The collector shall be entitled to such allowance as shall be made him by the common council, for collecting without distress or sale, and one dollar on all sales of goods and chattels, together with charges for removing and keeping property distrained, and fifty cents for each sale made of real estate, and for giving a certificate, and twenty-five cents for the acknowledgment of such certificate, to be added and estimated in the sum for which such goods and chattels, lands and tenements, are sold.

SEC. 39. In case any person shall refuse or neglect to pay the tax imposed on him by virtue of this act, the collector shall, after the 1st day of January in each year, levy the same, together with five per cent. damages, and the costs and charges that may accrue by distress and sale of the goods and chattels of such person as ought to pay the same, wherever the same may be found within the city, or add five per centum to the amount of such person's taxes, and sell his lot, tract, or parcel of land for the same, in addition to the taxes and costs previously levied thereon.

SEC. 40. The purchasers at such sale shall immediately pay the amount of their respective bids to the collector; or on their failure to do so, the goods or chattels, lands or tenements, shall be again forthwith offered for sale, the same as if no sale had been made, and the purchasers so failing shall forfeit and pay, for the use of the city of Madison, a penalty of twenty-five per centum on the amount of their bids, to be recovered with costs, by action of debt, in the name and for the use of the city of Madison, before any court of competent jurisdiction.

SEC. 41. Whenever the treasurer shall discover, prior to the conveyance of any lands sold for taxes as hereinbefore provided, that the sale was invalid for the reason that the land was not subject to taxation, or that the taxes for which it was sold had been paid, or that it was in fact redeemed within two years after said sale, or that the land had been listed to two persons, one of whom had paid the taxes assessed thereon, he shall not convey such lands; but the purchase money and interest thereon at the rate of six per centum per annum, shall be refunded out of the city treasury, to the purchaser, his heirs or assigns.

SEC. 42. It shall be the duty of the treasurer to receive and disburse all moneys belonging to the city, keeping an accurate account of all receipts and expenditures, and perform such other services as the common council may direct. All moneys raised, recovered, received, or collected, by means of any tax, license, fine, forfeiture, or otherwise, or which may belong to said city, shall be paid into the city treasury, and shall not be drawn therefrom except by order

on the authority of the common council, to be signed by the mayor and attested by the clerk. It shall be the duty of the treasurer to receive the list and return made by the collector of lots and lands by him sold for taxes, as hereinbefore provided, and preserve the same, and on the application of any owner or claimant of any lot or parcel of land, to redeem the same, to receive from him and pay over to the purchaser on demand the tax, costs, and per centage as hereinbefore required, giving to such person a receipt for the amount so paid; for which service the said treasurer shall be entitled to charge and receive from such person a fee of twenty-five cents.

SEC. 43. Whenever the owners of lots on any street or section of street, lane or alley, shall be desirous of making any improvement on the same, by grading, graveling, paving, curbing, and guttering, or by curbing, and guttering, and paving, or graveling, or in any other manner improving the side-walk on any street or lane or section thereof, or by making any other useful or ornamental improvement, and the owners of lots on such street, lane or alley, or any section thereof, by themselves, or agents duly authorized by them to do so, owning five-eighths of the whole number of feet of ground bordering on said street, lane or alley, on both sides thereof, shall, by petition to the common council, represent plainly and distinctly the improvement wanted or contemplated to be made, and request the common council to cause it to be done. The common council may cause the same to be done agreeably to the wishes of the petitioners, if said common council is satisfied that said improvement will be permanent and useful, and the expenses thereof shall be assessed and levied on all the lots and parcels of land fronting on said street, section of street, lane or alley, equally per front foot for the distance such improvement may be made. In estimating the number of feet of property fronting on each side of any such contemplated line of improvement, no part of any cross street, lane or alley within the limits of such contemplated improvement, shall be included in such estimate, nor shall any part of the width of any such cross street, lane or alley, be included in determining whether such petitioners represent the requisite number of feet on both sides of any such contemplated improvement.

SEC. 44. If in making any improvement of any street, lane or alley, as aforesaid, any cross street, lane or alley, is included in the distance, the grading across such cross street, lane or alley, and the graveling of the same, except the side-walks, shall be done at the expense of said city, if the same have not been graded, or graded and graveled, but no part of the expense of curbing and guttering, or paving, or graveling of side-walks, shall be paid by the city, (except where gutters are required to convey water across a street, lane or alleys;) nor shall any part of said work be paid for by the city until the contemplated improvement is fully completed. And in all cases it shall be the duty of the commissioner or commissioners under whose direction any such improvement is made or done

to keep the account of the expenses thereof in such a way as to show separately and distinctly from all other expenses, what has been the expense of grading and graveling, (except the graveling of side-walks,) the whole length of said improvement, and the city shall pay for the same in the proportion that the width of the streets, lanes and alleys crossed, that have not been graded and graveled, bears to the whole length of said improvement, and also the expense of constructing gutters across streets, lanes or alleys, where they are needful to convey away the water.

SEC. 45. Whenever the common council think that the public good or convenience, or the comfort or convenience of any considerable number of the inhabitants of said city will be promoted by making any improvement of any description, such as grading, graveling, curbing, guttering, or otherwise, in any street, lane, or alley within said city: and the property holders thereon neglect or refuse to petition the common council to have such improvement made, it shall be lawful for said common council to cause the same to be done, without petition, and assess the expenses, either pro rata per square foot, or agreeably to the valuation as aforesaid; but the concurrence of three-fourths of the common council shall be necessary to authorize an improvement without petition, or to authorize the levying of the expenses, ad valorem.

SEC. 46. It shall be the duty of the clerk to enter any petition for the improvement, in any manner, of any street, lane, or alley, on the record of the proceedings of the common council, with the petitioners' names and the number of feet front, owned or represented by each, so that it may appear at any time whether the requisite number of feet were subscribed; and the common council shall, either by general or special ordinance, provide for the collection of the expenses of all such improvements; and, in case of non-payment for the sale of the lot, or fraction of lot or lands, on which such taxes remain unpaid; and such sale shall be conducted in the same manner as herein before provided for the sale of lots and lands for the non-payment of taxes due the city; and the said levy, from the time it is made, shall be a lien upon the lots and lands charged therewith, to the same extent, and with the same restrictions, as taxes due the city are from the time the tax list is made out and completed.

All such sales of lots and lands made to defray the expenses of any improvement ordered by the common council, whether said improvement was made in pursuance of a petition or otherwise, shall be made by the collector of the revenue of the city, who shall make out and acknowledge a certificate of sale, in like manner as he is required to do to purchasers of lots and lands sold by him for city taxes, and make return of the sale to the treasurer of the city, who shall receive the redemption money, if tendered to him by any person claiming said lot or land, and if not redeemed, to certify the fact on the back of the collector's certificate of sale, in the same manner as he is required to do on certificates of unredeemed lots and lands which have been sold by

said collector for city taxes; which certificate of the treasurer shall be acknowledged before some officer authorized to take acknowledgment of deeds. The owner or claimant of any lot or tract of land, sold as aforesaid, shall be entitled to redeem the same within one year from the day of sale, by paying to the treasurer the amount for which it was sold, including all costs and lawful charges, and interest thereon, at and after the rate of one hundred per cent. per annum, from the day of sale; and such sale and such certificate, so executed as aforesaid, shall inure to, and vest in the purchaser the same interest, right, and title that by this act rests in the purchaser of lots or lands sold for city taxes, when certificates of such sales are executed as hereinbefore directed; and such title shall not be defeated except upon proof of one or more of the following facts, to wit: 1. That the lot or tract of land in said certificate named, is not located within the limits of the improvement, for which it was sold. 2. If the improvement was made on petition, that the requisite number of feet were not subscribed. 3. That the said levy had been paid before the sale, or tendered to some person duly authorized to receive it, and refused by him. 4. That it was redeemed before the expiration of one year from the day of sale.

SEC. 47. The purchasers at any such sale shall be required to pay the amount of their bids immediately; or, on their failure to do so, shall be subject to the same forfeiture that delinquent purchasers at sales for city taxes are; and the collector shall forthwith offer any such lot or lands again, the same as if no sale had been had.

SEC. 48. The collector and treasurer are authorized to charge and receive the same fees, and in the same manner, that they are authorized to do in the sale of lots and lands for city taxes.

SEC. 49. No contract shall be made for any improvement of any street, lane, or alley, either by petition or by a vote of the common council, which shall oblige the city to pay or advance any larger amount thereof than their true and just proportion, as hereinbefore specified.

SEC. 50. No street, lane, alley or public landing shall be discontinued without the consent of the owners of the adjoining property, to be given in writing, and spread upon the records of the corporation. Nor shall any new street, lane alley or public landing be made through private property; nor shall any street, lane or alley be widened by including private property, without first paying to the person or persons owning the same, (if demanded,) the full amount of the real injury sustained thereby; and for the purpose of enabling such person to make demand for the damages sustained, the common council shall cause six weeks' notice, by advertising in some newspaper, printed and published in said city, of their intention to make and establish such street, lane, alley or public landing, or to widen such street, lane or alley; and any person feeling aggrieved thereby may, at any time within said six weeks, apply to the common council for redress, by remonstrance, left with the clerk

of said corporation; whereupon, the common council shall appoint two disinterested freeholders of said city; said applicant for damages shall select two others, who shall, likewise, be disinterested freeholders of said city; and these four a fifth, with like qualifications; and these five, when so selected, or a majority of them, under oath, shall proceed to view, and on actual view to assess the injury sustained as the true value, taking into the account any advantages that will result to the balance of the lot or tract from which such ground is taken. And the damages so assessed shall be paid out of the city treasury before such street, lane, alley or public landing shall be established and opened, or before such street, lane or alley shall be widened. If the appraisers first above named cannot agree to the choice of a fifth, it shall be lawful for the common council to make the selection.

SEC. 51. The common council may make all the necessary appropriations for repairing all streets, (excepting curbing, gutters and side-walks,) and all alleys and lanes lying within the limits of said city, and within any recorded plat thereof, which now is, or which hereafter may be improved, by being well and completely graded, paved or graveled, curbed and guttered, and the side-walks paved or graveled the whole width thereof, where any side-walk is needed or intended to be made; but no appropriation shall be made for repairing any street, lane or alley which has not been improved or completed as aforesaid: *Provided*, That this section shall not be so construed as to prevent the common council from keeping in repair any section of any street lane or alley that has been or may be improved as aforesaid. A section of a street, lane or alley shall, in no case, embrace less than the length of a square, or through from one street to another street.

SEC. 52. No member of the common council shall, during the time for which he is elected, hold any office of emolument within the gift of said common council, nor be in any manner interested in any contract with the city, or to which the city is a party, or by which money is to be paid by the city; nor shall any member become surety upon any official bond of any officer of said city, or surety for the performance of any contract with said city. Any member, so interested, either as principal or security, shall forfeit his membership, and his seat shall be declared vacant.

SEC. 53. All elections shall be by ballot, (and except to fill vacancies) on the first Monday in April annually, and at such place or places as the common council shall designate; of which place or places, at least fourteen days notice shall be given by advertisement in some newspaper printed and published in said city; and every free white male citizen of the United States of the age of twenty one years, who shall have resided within the limits of said city one year next preceding such election, and shall have paid all taxes of every description legally due from him to said city, shall be entitled to vote, (except as hereinbefore provided) and the receipt of the collector of the revenue of said city, for all taxes due as aforesaid, or the collector's certificate, that no tax stands charged

against him, shall be received by the judges of any election as proof that all taxes against the person applying to vote have been paid; and in the absence or for want of such receipt or certificate, the person applying to vote shall be required to swear or affirm positively, that all such taxes have been fully paid by him, or that he has applied to the collector, and was assured by him that there was no taxes charged against him on the duplicate; and for the purpose of enabling the officers of such election faithfully to discharge their duties and to guard against imposition, the inspector of such election shall administer an oath or affirmation to any person who may offer to vote at such election, without exhibiting such receipt or certificate as aforesaid, and interrogate him under oath touching the payment of such taxes, and, also, touching all his other qualifications, and any person testifying falsely upon such examination respecting his aforesaid qualifications, shall be guilty of perjury, and shall be liable to be indicted, convicted, and punished therefor, under general laws of the State of Indiana, for the punishment of the crime of perjury; the inspector of any election may also require any and every person of whose legal right to vote the judges of said election may have doubts, to answer under oath all questions touching his qualification to vote at said election, and any person answering any such question falsely, shall be guilty of perjury, and upon conviction thereof shall be punished under the laws of the State of Indiana for the crime of perjury; and still further to insure the foregoing objects, it is hereby made the duty of the person or persons having the custody or control of the proper tax assessment roll or rolls to furnish the same or full and perfect copies thereof to the officers of such election to be used by them during the taking of votes.

SEC. 54. Every inspector who shall fail or refuse to require and compell any person offering to vote at any such election as aforesaid, either to produce his proper tax receipt, or certificate, or to swear or affirm to the payment of his taxes as hereinbefore required, or permit any person to vote, so failing as aforesaid at any election, shall forfeit and pay to said city upon conviction thereof, for each and every such offence, the sum of one hundred dollars, which may be recovered with costs in an action of debt in any court of competent jurisdiction.

SEC. 55. The polls for all elections shall be opened at 10 o'clock A. M., and continued open until 6 o'clock P. M. of the same day: *Provided*, That the officers of an election at any poll, or a majority of them concurring, may close the polls for the space of one hour, commencing at noon: *And provided further*, That the polls may be closed at any time after 4 o'clock P. M., if fifteen minutes shall elapse in which no voter shall offer to vote.

SEC. 56. Each qualified voter shall be entitled to vote once and no more, and if any person not possessing all the necessary qualifications, shall attempt to vote, or if any person shall attempt to vote more than once, or shall designedly hand in two or more tickets folded together, such person so offending shall upon conviction

thereof, forfeit and pay any sum not exceeding fifty dollars to be recovered by action of debt, in the name and for the benefit of said city, before any court of competent jurisdiction, and shall, moreover, be rendered incapable of voting at any city election for the next three years.

SEC. 57. Every ticket handed in may contain the name of every candidate intended to be voted for, either in writing or print, designating the office to which the voter wishes each to be elected, and if more persons are designated to any office than there are candidates to be elected, such part of the ticket shall not be counted to either of them, but no ticket shall be lost for want of form, if the judges of the election can determine to their satisfaction the person voted for and the office intended.

SEC. 58. It shall be the duty of the common council annually to appoint as many inspectors as they shall direct polls to be opened in the city, from among the qualified voters thereof, whose duty it shall be on the first Monday in April annually, to attend at the place designated for holding said election, and take to himself previous to the hour for opening the polls, two qualified voters who, together with himself, shall constitute the judges of the election, which judges shall appoint two suitable persons clerks of said election, and said inspector, judges and clerks, shall before entering on their duties, take an oath which may be administered by any person authorized to administer oaths, or by the inspector to the judges and clerks, and by one of the judges to the inspector, faithfully and impartially to discharge the duties assigned to them.

SEC. 59. Should the regular inspector refuse or fail to attend at the time and place designated, by 10 o'clock A. M. of any day on which an election is to be held, then and after that time, it shall be lawful for the qualified voters of the city to appoint *vive voce* and by a plurality of voices an inspector for the occasion, who shall be governed in all things by the same rules as the regular inspector.

SEC. 60. It shall be the duty of inspectors of elections, before opening an election, to make or cause to be made a suitable poll book and tally papers, and before receiving any vote, to proclaim or cause to be proclaimed aloud that the election is opened; every election shall be held at the particular place designated by the common council; the election being opened the judges shall proceed to receive the votes, and when a vote is presented, the inspector shall call out the name of the person presenting it, and demand his receipt or other proof that he is not in arrears for taxes, which if produced and the judges of the election are satisfied either by or without administering the oath hereinbefore authorized, that he is a qualified voter, the inspector shall receive his ticket, and in the presence of the other judges put it into a box to be provided for that purpose, and the clerks of the election shall record the same on their separate list or poll book, numbering every name taken down so that it may at any time be seen whether their lists agree.

SEC. 61. If any inspector, judge or clerk, shall attempt to pry into

or find out the name of any person or persons on any ticket at the time the same is handed in, or expose any such vote, he or they so offending, shall forfeit and pay the sum of one hundred dollars, to be recovered by an action of debt before any court of competent jurisdiction, in the name and for the use of the city of Madison.

SEC. 62. After the polls shall be closed, the judges shall proceed to open the box and to canvass and estimate the votes given at such election, the canvass shall be public and shall commence by a comparison of the poll list, and a correction of any mistakes that may be found therein, until they shall be made to agree; the judges shall then proceed to canvass and estimate the votes, when the tickets shall be taken out carefully one by one by the inspector, who shall open them and read aloud the name of each person written or printed thereon, and the office for which each person is voted for, and shall then hand it to one of the judges, who shall string it on a thread prepared for that purpose; as the inspector shall read aloud the tickets, each clerk shall carefully mark down on his tally paper the votes each individual shall receive, and the office he is voted for.

SEC. 63. As soon as all the votes are read off and counted, the judges shall proceed to ascertain who among the persons voted for, for councilmen, mayor, marshal, assessor, collector, and treasurer, have received the highest number of votes, and having ascertained, shall declare such persons duly elected, and shall make out and deliver to each of them a certificate under their hands to that effect, specifying in each councilman's certificate the ward for which he was elected. But should two or more persons receive an equal and the highest number of votes for the office for which they were candidates, the judges shall determine by lot who of such persons shall have the office, and having so determined shall give a certificate as aforesaid.

SEC. 64. It shall be the duty of the judges of every election to complete the canvass of votes and make out the certificates hereinbefore required to be given by four o'clock P. M. of the second day succeeding any election, and the said certificate shall be delivered to the person entitled to receive it, or left at his residence within three days thereafter; within the same time it shall be the duty of every inspector to leave with the clerk of the common council, to be by him filed and preserved, one of the poll books and tally papers, the other poll book and tally paper, with the tickets, shall be kept and preserved by the inspector for the term of three months, for the inspection of any of the voters of said city who may wish to examine the same.

SEC. 65. No qualified voter shall be arrested on any civil process within said city on a day on which the annual election for city officers is held, nor a legal voter of any ward on any day when an election for a councilman to fill a vacancy is held in his ward.

SEC. 66. If any person shall use any threat, force, or violence, or attempt to awe any voter so as to restrain him in his freedom of choice, or offer any fee or reward in meat, drink, or otherwise, in

order to induce or persuade an elector to vote contrary to his own mind, or shall, on the day of election, give any public treat, or direct any person to do so on his behalf, with the view to obtain any vote or votes for himself or any other candidates; every person so offending shall, upon conviction thereof, forfeit and pay any sum not less than fifty dollars nor more than one hundred dollars, to be recovered in an action of debt, in the name and for the use of the city of Madison, before any court of competent jurisdiction.

SEC. 67. If any inspector, judge, or clerk of any election, having taken upon himself the performance of any of the duties herein required of them, shall neglect or refuse to discharge the same, or shall be guilty of any fraud or corruption in doing such duties, he shall forfeit and pay any sum not less than fifty nor more than one hundred dollars for every such wrongful act of commission or omission, to be recovered in the name and for the use of said city before any court of competent jurisdiction.

SEC. 68. Every mayor, councilman, marshal, assessor, collector, and treasurer shall, before entering upon the discharge of his duties, take an oath before some competent authority faithfully and impartially to perform his duties, which oath shall be certified on the certificate of his election.

SEC. 69. The councilmen, when elected and qualified as aforesaid, shall constitute the common council of the city of Madison, but a majority of all the members to which all the wards are entitled shall at all times be necessary to constitute a quorum for the transaction of business. They shall be judges of the election returns and qualification of their own members, shall determine the rule of their own proceedings, and keep a record thereof, which shall be open to the inspection of every citizen, and may compel the attendance of absent members in such manner and under such penalties as they shall think fit to prescribe.

SEC. 70. The common council may, when they shall deem it necessary, cause such additional polls to be opened for the reception of votes as will enable all the qualified voters of said city to deposit their votes within the time prescribed for the reception thereof.

SEC. 71. It shall be lawful for the mayor, councilmen, marshal, assessor, collector, and treasurer, respectively and individually, at any time after being elected and qualified as in this act provided, to enter on their respective duties; *Provided, however*, that if any of the aforesaid officers shall neglect, for the space of thirty days from the time of his election, to qualify and enter upon the duties of his office, such neglect shall be deemed and taken to be a refusal to qualify and a renunciation of said office.

SEC. 72. The common council shall not make or authorize any contract on which money shall be undertaken to be paid, nor authorize the appropriation of money nor the issuing of orders upon the treasury to a larger amount in any year than the actual revenue of the year, nor shall any order be drawn upon the treasurer

for a smaller amount than the whole amount due to the person in whose favor the order is drawn; and no order shall be drawn upon the treasurer for any amount unless there are funds there to pay it on presentation, without the unanimous concurrence of all the members of the common council present.

SEC. 73. The common council shall appoint a clerk, whose duty it shall be to keep a full and fair record of all the acts, doings, and proceedings of said common council, and the minutes of the proceedings of each meeting being recorded by said clerk, shall be read over by him at the next meeting of the board, and if incorrect in any particular it shall be rectified, and when correct, or corrected, shall be signed by the presiding officer of the meeting and attested by the clerk, and at no future day after being so signed shall said records in any way be altered or amended. It shall also be the duty of the clerk to keep and preserve the records and all other papers belonging to said city, and to hand them over entire, with all other matters pertaining to his office, to his successor, whenever one shall be appointed, and do and perform such other duties as may be enjoined upon him by the common council; and transcripts from the records of the common council, certified by the clerk under the corporate seal, shall be evidence in all courts in like manner as if the original were produced; and in the absence of the regular clerk it shall be lawful for the common council to appoint a clerk *pro tempore*, either from their own body or from citizens who are not members of said common council.

SEC. 74. Until a city jail and watch house are erected, said corporation shall be allowed the use of the jail of Jefferson county, and the sheriff of said county shall receive and discharge such persons as may be committed in and from said jail, in such manner as may be prescribed by the ordinances of said city or otherwise, by due course of law, and it shall be lawful for said corporation to use any room in said jail as a watch house, and for said sheriff to permit it so to be used, on such terms as may be agreed upon by said corporation and sheriff.

SEC. 75. For all purposes whatsoever the limits of the city of Madison south shall be coextensive with the limits of the State of Indiana, and the jurisdiction of said city over the Ohio river shall be coextensive with the jurisdiction of the State.

SEC. 76. All penalties incurred for the violation of any ordinance, by-law, or police regulation, passed by the common council of the city of Madison, under the authority of this act, which violation of said ordinance, by-law, or police regulation is not, at the time when, and the place where, committed, a breach of any of the penal laws of the State of Indiana, shall, when collected, be paid into the city treasury for the use of said city.

SEC. 77. All ordinances, by-laws, and police regulations now in force in the city of Madison, and not inconsistent with this act, shall remain in force until altered, modified, or repealed under this act; and all suits, actions, and prosecutions instituted, commenced,

or brought by the corporation hereby created, shall be instituted, commenced, and prosecuted in the name of the city of Madison.

SEC. 78. All property, real and personal, heretofore belonging to the city of Madison, shall be, and the same is hereby, declared to be invested in the corporation hereby created.

SEC. 79. This charter shall not invalidate any act done by the common council of the city of Madison, nor divest them of any right which may have accrued to them prior to the passage of this act.

SEC. 80. The general assembly of the State of Indiana may at any time hereafter alter, amend, or repeal this act, but the same shall be done only by a vote or votes directly on the question of such alteration, amendment, or repeal; nor shall this act be in any wise affected by any general law of this State, controvening it, or any of its provisions.

SEC. 81. This act is hereby declared to be a public act, and may be read in evidence in all courts of law and equity in this state without proof.

SEC. 82. The inhabitants of Madison are hereby exempted from working upon any road beyond the limits of the city and from paying any taxes to procure laborers to work upon the same: *Provided*, Said common council shall have the power to appropriate any tax levied therein, for road purposes, to the improvement of any of the roads on the hill sides leading to said city.

SEC. 83. In all prosecutions before the mayor for breaches of the ordinances of the city the defendants shall be entitled to a jury, and it shall be lawful for any number (not exceeding twelve) that the defendant and city attorney may agree upon, to try the case.

SEC. 84. In all cases when a defendant, who has been convicted before the mayor and fined for a breach of any ordinance of the city, shall appeal to the circuit court, it shall be lawful for either party to proceed forthwith to take the depositions of any and all such witnesses as they may deem material to sustain the charge or defence, but if any witness whose deposition has been taken, shall appear in the circuit court at the time of trial, and testify in the case, the deposition shall not be read on such trial, and the party on whose behalf said deposition was taken shall pay all the costs of taking said deposition.

SEC. 85. Whenever a majority or any larger proportion of the common council is required by this act to vote affirmatively on any question, in order to its passage, it shall be construed to mean such proportion of all the members to which all the wards are at the time entitled, including, with the members present, all absent members and all vacancies existing at the time in the common council.

SEC. 86. All the officers of the city of Madison now in office therein, shall remain and continue in their respective offices, and perform the several duties thereof under the provisions of this act, until the time shall expire for which they have been elected, and until their successors shall be chosen, or appointed and qualified,

and all laws, ordinances, by-laws, and police regulations heretofore lawfully passed and adopted by the common council of said city, shall remain and continue in full force until altered or repealed by the common council established by this act.

SEC. 87. That all acts contravening the provisions of this act be and the same are hereby repealed.

SEC. 88. This act to take effect and be in force from and after its passage, and the reception of a certified copy thereof at the mayor's office in the city of Madison, and it shall be the duty of the Secretary of State to forthwith make and transmit by mail to the "mayor of the city of Madison," a duly certified copy thereof.

CHAPTER LIII.

An Act for the collection of revenue in the county of Lake for the year 1847.

APPROVED DECEMBER 10, 1847.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the board of equalization of the county of Lake to meet at the court house in said county, on the first Monday in January, 1848, for the purpose of equalizing the assessment of said county for the year 1847.

SEC. 2. That the board of commissioners of said county, shall, as soon as said equalization shall be made, hold a special session of their court, for the purpose of assessing a state and county tax for the year 1847, in accordance with the laws regulating the assessment and collection of taxes for said year 1847.

SEC. 3. The auditor of said county of Lake shall immediately after the assessment of the tax as aforesaid, make out and deliver to the treasurer of Lake county the duplicate of taxes so assessed.

SEC. 4. Immediately on receiving said duplicate, the treasurer shall proceed to collect the same, and for that purpose shall, before the first day of April, 1848, attend at the place of holding elections in each township for the space of one day, and after said first day of April, until the first day of May ensuing, he shall, for the same purpose, attend at his office at the seat of justice.

SEC. 5. The county auditor and treasurer shall attend at the office of said auditor on the second Monday of June, 1848, and said treasurer shall then and there make settlement with said auditor for the amount of taxes with which said treasurer stands charged in his duplicate.

SEC. 6. The treasurer of said county of Lake shall, on or be-

fore the first Monday of July, 1848, pay over to the state treasurer all the moneys found due for state revenue according to the certificate of settlement with the auditor of his county, deducting therefrom his travelling fees.

SEC. 7. All lands returned delinquent for the years 1846 and 1847, for the non-payment of taxes, shall be sold on the first Monday of January, 1849, the same as if they had been regularly advertised and sold in accordance with the laws now in force.

SEC. 8. All laws now in force regulating the collection of revenue for state and county purposes, shall regulate and control the provisions of this act when not inconsistent therewith.

SEC. 9. It shall be the duty of the county auditor of said county of Lake, immediately on receiving this act, to issue a notice to the commissioners of said county to meet and act in accordance with the provisions of this act, which notice shall be served by the sheriff of said county.

SEC. 10. This act shall be in force from and after its passage; and it is hereby made the duty of the secretary of state to immediately transmit by mail, to the auditor of said county of Lake, a certified copy of this act.

CHAPTER LV.

An Act authorizing the trustees of school district number five, in township thirty-seven north, of range three east, in St. Joseph county, to levy a tax to finish a school house.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the trustees of school district number five, in township thirty seven north, of range three east, in St. Joseph county, be and they are hereby authorized to levy a tax upon the property of said district, not exceeding fifty cents on each one hundred dollars per annum until certain loans, together with the interest thereon, which have been or may be made for the purpose of finishing a school house in said district shall be satisfied.

SEC. 2. This act to take effect and be in force from the after its passage.

CHAPTER LV.

An Act fixing jurors' fees before justices' courts in the county of Delaware.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the fees of jurors before justices' courts, in the county of Delaware, shall be fifty cents per day.

SEC. 2. All laws and parts of laws contravening the provisions of this act are hereby repealed.

SEC. 3. This act to be in force from and after its passage.

CHAPTER LVI.

An Act to incorporate New London, Howard county.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the town of New London be and the same is hereby incorporated under the general provisions of the Revised Statutes of the State of Indiana, as the same are contained in the twenty-fifth chapter, article first, of said revision.

SEC. 2. The boundaries of said corporation shall be as follows, to wit: The north line shall be one-fourth of one mile north, and parallel to Mill street; the south line shall be one-fourth of one mile south, and parallel to Mill street; the east line shall be one-fourth of one mile east, and parallel to Main street; and the west line shall be one-fourth of one mile west, and parallel to Main street of said town of New London.

SEC. 3. An election for trustees shall be held within one month after the first Monday in March, 1848, in accordance with the provisions of the second section of the article aforesaid, and the clerk of Howard county circuit court is hereby authorized to give the notice as contemplated in said section, for which service the board of trustees shall make to him a reasonable compensation.

SEC. 4. It shall be lawful for the qualified voters of Monroe township, Howard county, on the first Monday in April, 1848, at the usual place of holding elections in said township, to elect one justice of the peace and one constable in addition to those now authorized by law to be elected in said township.

SEC. 5. Such justice of the peace and such constable, when elected as aforeiaid, shall keep their respective offices and shall reside in the town of New London, in said township and county.

SEC. 6. This act to be in force from and after its pass.

CHAPTER LVII.

An Act to incorporate the Kosciusko, Elkhart and Miami Railroad Company.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all persons who may become subscribers of stock, pursuant to the provisions of this act, be and they are hereby declared and constituted a body politic and corporate, by the name and style of "The Kosciusko, Elkhart and Miami Railroad Company," and by that name in law and equity may sue and be sued, plead and be impleaded, answer and be answered unto in any and all courts whatever; may make and use a common seal, and change and alter the same at pleasure, make contracts, and establish and enforce by-laws, rules and regulations to carry into effect the objects and provisions of this act.

SEC. 2. The capital stock of said corporation shall be three hundred and fifty thousand dollars; the said corporation having power, if it should be necessary to accomplish the objects contemplated by this act, to increase the capital stock to an amount sufficient for that purpose.

SEC. 3. The capital stock of said company shall be divided into shares of fifty dollars each, and subscriptions to said capital stock may be made in money, real estate, proper material for the construction of said road, labor to be performed on said road, or choses in action, and all subscriptions of stock payable in anything but money, shall be paid in whatever article or thing may be subscribed at its fair cash value, to be ascertained by appraisers appointed for that purpose by the corporation.

SEC. 4. Books may be opened to receive subscriptions of capital stock by Ebenezer Brown, Chauncey S. Haskall, Cephas Hawks, jr., and Joseph H. Defrees, of the county of Elkhart; Mahlon F. Davis, Metcalf Beck, and Samuel H. Weyburn, of the county of Kosciusko, and Daniel R. Bearss, and William M. Reyburn, of the county of Miami, and such other persons as they may appoint, which said books may be kept open for such purpose until the sum of ten thousand dollars capital stock shall have been subscribed, and thereafter as said board may direct.

SEC. 5. When the sum of ten thousand dollars shall have been subscribed, it shall be lawful for the stockholders of said corporation to elect a board of directors, consisting of nine persons, citizens of the United States and stockholders of said company, a majority of whom shall be citizens and residents of Indiana, which said election shall be ordered by at least ten stockholders, who shall give public notice in some public newspaper or newspapers printed in any of the counties of Miami, Kosciusko or Elkhart, if any there be, and if not, then in some newspaper published nearest to the route of said contemplated railroad, which notice shall specify the time and place of holding said election, and the purpose for which the same shall be held, and shall be published four weeks successively before the holding of such election.

SEC. 6. Such election shall be by ballot, and shall be conducted under the superintendence of one inspector and two judges, to be appointed by a majority of the stockholders present at such election, and the nine persons receiving the highest number of votes polled, shall be declared duly elected, and shall receive from such inspector and judges certificates, respectively, of their election as such directors. In all elections for directors each stockholder shall be entitled to as many votes as he or she may be the owners of shares, which votes may be cast in person or by proxy.

SEC. 7. It shall be the duty of such board of directors to elect one of their number president, and the president and directors shall hold their offices until the next annual election, and until their successors are elected and qualified, and five directors shall constitute a quorum to do business.

SEC. 8. All subsequent elections of directors shall be held on the first Monday of January of each year, and shall be conducted in all respects as provided in the sixth section of this act, and three weeks' notice in some newspaper, as specified in the fifth section of this act, shall be given of the time and place of holding such elections, and the directors elected at such annual election shall hold their offices until their successors are elected and qualified, and the board of directors shall annually elect one of their number president, who shall hold his office until the expiration of his term of office as director.

SEC. 9. The said corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other officers and persons necessary and proper to carry into effect the objects of this act. They shall keep a journal of their proceedings, in which shall be entered all the by-laws, rules, and regulations, and all orders for the payment of such allowances as may be made to their officers and persons in their employ, which journal shall from time to time be signed by the president. The said board of directors may meet on their own adjournments, or on the call of the president, or of any five members thereof. They may, in the absence of the president, appoint a president, *pro tem.*, and they shall fill all vacancies which may occur in their own body.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held; such certificate of stock shall be signed by the persons herein appointed to open books, or a majority of them, until a board of directors shall have been appointed, after which such certificates as may be thereafter issued shall be signed by the president, and counter-signed by the secretary of said company, to which shall be fixed the corporation seal. The stock shall only be transferred on the books of said company by the person or persons owning the same, their legally authorized agents or attorneys, or by their legal representatives, trustees, or guardians, and such stock shall be at all times holden for any dues from the owners thereof to the corporation, or for any sums that may thereafter become due from the owner, or any contract made with such corporation prior to such transfer.

SEC. 11. After the organization of said corporation, by the election of a board of directors as aforesaid, they shall have power to call for such part of the stock subscribed (not exceeding fifteen per centum in any six months) as they may think proper, to be paid at such time and place (in either [of] the counties of Elkhart, Kosciusko, or Miami) as they may designate, by giving sixty days' notice by publication in some newspaper near the road, or by giving to the stockholders written notices; and if any stockholder shall fail, neglect, or refuse to pay the sum so called for on his, or her, or their stock for the space of twenty days after the time named for such payment in said notice, the corporation may bring suit against such delinquent for the amount due and called for, with interest from the time of such failure, neglect, or refusal, and the evidence necessary to establish such claim shall be the book of the corporation in which the stock has been subscribed, with proper legal proof verifying such subscription, the order on the journals of the corporation calling for the installment on the stock, and proof that the notice above specified has been given as in this section required; and if the amount recovered against such delinquent cannot be made on execution, or if such delinquent resides out of the State of Indiana, then the corporation may, by an order on their journals, declare such stock, and all that may have been paid thereon, forfeited to the corporation; and no delinquent after such failure, neglect, or refusal, and before his stock shall be so declared forfeited, shall have the right to vote for directors until all such delinquencies, with interest as aforesaid, shall be fully paid; and should any such delinquent or delinquents be a director or directors, his or their offices as such, may by the other directors not delinquent, be declared vacated by an order entered on the journals. The corporation shall require from all officers in their employ such bond and security as they may deem proper.

SEC. 12. The corporation shall have power by themselves, or their agents, to examine, survey, and locate a route, and on such route construct a railroad from the town of Peru, in Miami county, through the town of Warsaw, in the county of Kosciusko, to or

through the town of Goshen, in the county of Elkhart, to intersect at that point the Buffalo and Mississippi railroad, in said county of Elkhart, and to the Michigan State line in *Elkhart county*, if said corporation desires it. The said board of directors shall enter upon their journals a particular description of the precise points of commencement and termination of said route, and a particular description of the directions and distances of said route, from point to point, the said board having full power to determine the same, and when so determined and entered upon their journals they shall have no power whatever to alter the location of said route, or any part thereof, unless such power shall be granted by the legislature: *Provided, however*, That said route shall not be located in whole or in part upon any state or county road, without permission granted by the board doing county business of the county where such road may lie, and which permission, when entered upon the order-book of said board doing county business, shall be irrevocable during the continuance of the charter of said corporation.

SEC. 13. It shall be lawful, for the purpose of examining, surveying and locating such route, for said corporation, or those in their employ, to enter upon any land and search for stone, wood, and other materials, necessary to be used in constructing said railroad; but no such materials shall be removed without the consent of the owners, or until the amount of the compensation therefor shall have been ascertained, as hereinafter provided.

SEC. 14. That said corporation may, at any time, obtain from the persons through whose lands said road may run, relinquishments of so much land as may be necessary upon which to construct it, and also the right of way over the lands of any person, or persons, and also the stone, timber, or other materials, necessary to be used in constructing said road, on any lands near to said route, and also by gift, grant, donation or bequest, made and entered into, in writing, by any person, capable in law of contracting, made in consideration of said road, or any other lawful consideration, may receive lands, money, labor, or materials, or any other kind of property; and all such gifts, grants, donations and bequests shall be binding in law and equity; and the said corporation shall have their remedy, legally or equitably, to compel a compliance therewith.

SEC. 15. Said corporation shall commence the construction of said road within six years from the passage of this act, and shall finish the same within twelve years, from the commencement thereof.

SEC. 16. Said corporation, for the transportation of passengers, or any kind of freight, on said road, or any part of it, may charge such prices as they may deem proper, and as shall not be exorbitant, unreasonable or oppressive.

SEC. 17. Any person or persons capable in law of making a contract, any body politic and corporate in the United States, and any county or counties in the State of Indiana, may subscribe to the capital stock of said corporation.

SEC. 18. The said corporation shall have full power to hold and convey any real estate, which may be vested in them in the payment of capital stock, which may be subscribed payable in real estate, and to purchase, hold, and convey any real estate which may be levied upon and exposed to sale, by virtue of any execution or decree in favor of said corporation, and to purchase and hold any real estate which may be necessary for the erection of any depots upon said road, or other necessary buildings connected with said road: *Provided*, That no real estate received as stock shall be sold for less than the price at which the same was so received by said corporation.

SEC. 19. Said corporation shall cause to be kept a fair account of the cost of making and repairing said road, all expenses of motive power, and all other expenses connected therewith, and shall also keep a fair account of all moneys received from the transportation of freight, passengers, and mails, and all other receipts and such books of account, and all other books of said corporation, shall, at all times be open for the inspection of the stockholders and creditors of said corporation.

SEC. 20. That when said road shall run through the lands of any person or persons, from whom a relinquishment of the right of way cannot be obtained, and a contract between the parties cannot be made, it shall be lawful for the corporation to give notice in writing to some justice of the peace of the township in which such land lies; and such justice of the peace shall, thereupon, summon the owner or owners of such tract of land, if he, she, or they be residents of the county; and if not, then actual notice may be given in any other manner, and proven before such justice by the corporation, or proof of the non-residence of such owner or owners may be made before such justice, in which case no summons or notice shall be necessary, and such justice shall, also, immediately upon the filing before him of the notice of the difficulty, as hereinbefore provided, appoint six disinterested freeholders of the county, who, after taking an oath faithfully and impartially to assess the damages sustained, if any, shall proceed to examine the matter by personal inspection, taking into consideration the advantages and disadvantages of said road to the owner of such land, and shall, at a day appointed by such justice, of which such owner or owners shall be notified in the summons or notice aforesaid, if a resident or residents of the state, report to such justice the damages, if any assessed, in accordance with which report, such justice shall immediately enter a judgment, unless for good cause shown, and if either party should show sufficient cause, the justice may grant a review, by other six freeholders, to be by him appointed: *Provided, however*, That if the amount of damages assessed should amount to, or exceed one hundred dollars, it shall be the duty of the justice to certify the whole matter and all the proceedings to the circuit court of the county, in which court proceedings shall be had, similar in all respects to the manner of proceedings before justices of the peace,

as hereinbefore provided: *Provided, further*, That either party may appeal from the judgment of the justice of the peace, in the same manner as provided by law in other cases, and then the circuit court shall appoint viewers, who shall report at such time as the court may direct; and upon such report, such court shall proceed to enter judgment immediately, which judgment shall be final.

SEC. 21. This act is hereby declared to be a public act, of which all courts shall take judicial notice without its having been pleaded, and it shall receive a liberal construction.

SEC. 22. If said corporation should fail to complete the whole of said road within the period limited by this act, and shall complete any part thereof, such corporation shall be permitted to use and enjoy such portion so completed, as freely and completely as they could use and enjoy the whole, if it were completed according to the provisions of this act.

SEC. 23. Said corporation shall be invested with the corporate privileges, by this act conferred, subject to the conditions and limitations herein contained for and during the term of seventy-five years from the passage of this act.

SEC. 24. Said corporation may, either before or after the completion of said main road, build such branches to and from such points as they may desire; or other companies may be organized, and under such corporate name as they may adopt, may, by the consent of the corporation, by this act created, construct any such branch, subject to the privileges, immunities, and restrictions of this act, and, for this purpose, the written consent of two-thirds of the incorporation named in this act, shall be full authority, before said company is organized, and an order entered on the books of the board of directors, after the said company shall be organized, shall be full authority for said new company to organize and open books for the subscription of stock.

SEC. 25. This act to be in force from and after its passage.

CHAPTER LXII.

An Act to incorporate the Laporte Female Seminary.

[APPROVED FEBRUARY 14, 1843.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Alexander Blackburn, Gustavus A. Rose, William J. Walker, Ezekiel Morrison, Jeremiah Ridgeway, William C. Hannah, and their associates and successors in office, be, and they are hereby

created a body politic and corporate, under the name and style of the "Laporte Female Seminary," and by that name they and their successors shall have perpetual succession, and are hereby made capable, in law, to have, possess, purchase, receive, enjoy, and retain, hold or dispose of, for the use of said seminary, lands, tenements, and annuities, and other hereditaments, in fee simple, or for a term of years, life, lives, or otherwise; and, also, money, bonds, bills, notes, goods, chattels, interests, or effects, of whatever nature, quality, nature or kind soever, by the gift, bargain, sale, or devise of any person or persons, body politic or corporate, capable of making the same, and the same to grant, demise, sell, alien, and confirm in such manner as they shall judge most conducive to the interests of said seminary. But this corporation shall not hold a greater amount of real estate (exclusive of the site and edifices thereon) than the value of ten thousand dollars.

SEC. 2. Said trustees and their successors, by the name and style of the Laporte Female Seminary, shall be capable in law to sue and be sued, plead, and be impleaded with, in any court in this State.

SEC. 3. Said trustees shall have power to appoint annually, a president of the board, a secretary, and a treasurer; and may require the treasurer to give bond with such security, and in such penalty as the trustees shall think proper, for the faithful discharge of his duties, and to impose such duties upon him as they may think proper. The president shall preside in all meetings of the board when present, and in case of his absence or disability, or the absence or disability of any other officer, the trustees shall have power to appoint an officer *pro tem*.

SEC. 4. Said trustees and their successors shall have authority to make and use a common seal, and the same to change, alter, and renew at pleasure; and shall, also, at any regular meeting of the board, have full power and authority to constitute and appoint permanently, in such a manner as they may deem expedient, a president, together with such professors and other instructors as may at any time be necessary to form an efficient faculty for the proper instruction of students in the arts and sciences, and in all the necessary and useful and ornamental branches of a thorough and liberal education, such as are taught in the best female colleges or academies. And the said president and professors, with such instructors or instructresses as may by the trustees be included, shall be known and distinguished by the name of "the Faculty of the Laporte Female Seminary," and in that name shall be capable of exercising such powers and authorities in the institution as shall be delegated to them according to the by-laws enacted by the trustees; and the majority of the said trustees may at any regular meeting, vacate the office of any of the faculty, instructors, or instructresses, and proceed to fill such vacancy, at the same or some subsequent meeting of the board.

SEC. 5. The said trustees and their successors in office shall meet

at least once in every year in a stated annual meeting, to be appointed by their own ordinances, and at such other times as by their said ordinances they shall direct, or the president or a majority of the trustees shall appoint, for the purpose of transacting such business for the prosperity and welfare of the institution as may come before them, in all of which meetings two-thirds of the trustees shall constitute a quorum for the transaction of business; and shall have power to make, alter or amend, all necessary ordinances, rules, and by-laws, not contrary to the constitution and laws of this state, for the government of said Seminary, and the proper education of its pupils; and to delegate to the president, professors, and other instructors and instructresses, such powers and authorities as they may judge expedient for the government of the institution. And the said trustees are hereby authorized to receive subscriptions, donations, and bequests, either in money, personal, real, or mixed property, for the purpose of enabling them to meet the expenditures requisite in establishing and continuing said institution. And the trustees and faculty shall have full power and authority, once in every year, or oftener, as they by their ordinances may direct, to hold a public commencement with exercises suitable to the occasion, and to graduate, with literary honors, such pupils as shall be found to have merited the same by their character and acquirements; and to confer upon all those pupils whom they shall deem worthy thereof, all such literary honors and degrees as are usually conferred by the best female colleges or academies; and may issue when they deem it expedient, testimonials or diplomas, signed by the faculty, and bearing the seal of said Seminary, as certificates of the same.

SEC. 6. Said trustees or their successors shall have power to appoint, or to associate with them such other persons as they may think proper, not exceeding eleven in number.

SEC. 7. This shall be a public act, and shall be construed liberally for every beneficial purpose hereby intended, and no omission to use any of the privileges hereby granted shall cause the forfeiture of the same, nor shall any gift, grant, or conveyance, to or for the benefit of the corporation be defeated, or prejudiced by any misnomer, misdescription, or informality whatever.

SEC. 8. This act to take effect and be in force from and after its passage.

CHAPTER LXV.

An Act to incorporate the Attica and Warren County Bridge Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That John Hemphill, Newman C. Porter, Joseph Pool, James D. McDonald, William Zigler, James McCord, Harley Greenwood, Isaac Brier, Thomas Hall, and William Crumpton, and such persons as they may from time to time associate with themselves, under the provisions of this act, be and they are hereby constituted a body politic and corporate under the name and style of "The Attica and Warren County Bridge Company," and by that name shall be capable of holding real estate sufficient to carry into effect the provisions of this act, and of suing and being sued, pleading and being impleaded, defending and being defended, both in law and equity in all cases whatsoever; and shall have full power and authority to ordain and establish all such laws, rules and regulations not repugnant to the constitution and laws of this state or of the United States, as shall from time to time be deemed necessary for the good management and interests of said company.

SEC. 2. The capital stock of said company shall be seventy-five thousand dollars, divided into shares of fifty dollars each.

SEC. 3. Whenever the persons named in the first section of this act shall desire to associate other persons with themselves as stockholders under this charter, it shall be their duty to give public notice thereof in some public newspaper nearest to the point where said bridge is to be located, for three weeks prior to the opening of books for receiving subscriptions of stock as hereinafter provided.

SEC. 4. After the publication aforesaid it shall be the duty of the first persons named in this act to open books at some public and convenient place in the town of Attica and elsewhere, for receiving subscriptions to the capital stock of said company.

SEC. 5. Whenever ten thousand dollars, or two hundred shares of the stock of said company, including the amount that may be taken by the persons named in the first section of this act, shall be subscribed, they shall give at least three weeks' notice by publication as above provided, of the time and place of the meeting of the stockholders to choose directors. And at the time and place appointed the stockholders shall choose five directors, being stockholders of said company, who shall serve one year and until their successors are chosen and qualified, a majority of whom shall be a quorum to transact business. The annual election for directors thereafter shall be held at such time and place as the directors at their first meeting shall appoint. The directors thus chosen shall, as soon thereafter as practicable, choose one of their own body as president, and also appoint a secretary and such other officers as

may be necessary: *Provided,* That should the stockholders at any annual election neglect or fail to elect directors, as provided in this section, the company shall not on that account be dissolved, but the president and directors for the time being shall continue to exercise the duties of their office until their successors are chosen as aforesaid.

SEC. 6. The directors may demand from the stockholders respectively all such sums of money by them subscribed at such times and in such proportions as they may think proper, not exceeding twenty-five per centum of the amount of stock, every three months, by giving three weeks' notice in some public newspaper printed nearest to where said bridge shall be located, or by giving written notice to the stockholders, stating the amount on each share demanded and the time and place of payment; and if any stockholder shall neglect or refuse to pay the requisition within ten days after the time named for such payment, the corporation may bring suit against such delinquent for the amount due, in any court of competent jurisdiction, and recover the amount with two per centum a month damages thereon from the delinquent, and if such amount cannot be made on execution, or if such delinquent is out of the state, the company may declare such stock forfeited to the corporation with whatever amount may have been paid thereon, and the same shall be absolutely forfeited to the company.

SEC. 7. In all elections for directors each stockholder shall be entitled to vote either in person or by proxy, under such regulations as may be prescribed by the directors, according to the following scale, to wit: for each share not exceeding five shares, one vote; for every two shares above five and under fifteen, one vote; for every three shares above fifteen, one vote.

SEC. 8. Half-yearly dividends of so much of the profits as the company may deem expedient shall be made on the first Monday of January and July in each year, and paid to the stockholders or their legal representatives as soon thereafter as it can be done with convenience.

SEC. 9. All the privileges of this act shall be as fully enjoyed by the persons named in the first section of this act, should they desire to form this company, individually, as though other persons were associated as stockholders.

SEC. 10. The said company are hereby authorized to erect a bridge across the Wabash river, from some point to be determined and fixed upon by said company, in the town of Attica, in Fountain county, to the opposite bank of said river in Warren county, and said company shall have and may use the writ of *ad quod damnum*, and the benefits arising from the law allowing said writ for the purpose of having condemned the necessary quantity of ground for the erection of abutments, toll-houses, and all necessary causeways, bridges and embankments.

SEC. 11. When said bridge shall be completed the said company may erect a gate at or near either or both the ends of said bridge,

and demand and receive a toll not exceeding the following rates, viz: for every four-wheeled carriage, drawn by two horses or oxen, twenty cents; for every additional horse or ox attached to the carriage, five cents; for every wagon, cart, sleigh, sled or cutter, drawn by one horse, fifteen cents; for every cart, sleigh, or sled, drawn by two horses or oxen, twenty cents; for each horse or mule, five cents; for each head of cattle, three cents; for every sheep or hog under the number of fifty, one cent; for every sheep or hog over the number of fifty, one half cent; for every foot passenger, five cents; and in analogous proportions of the foregoing rates for all animals and carriages, but all persons going to and returning from musters when doing military duty, and all funeral processions shall be exempt from paying toll.

SEC. 12. That if any person or persons shall wilfully impair or injure said bridge, he, she, or they so offending, shall, upon conviction, be fined in any sum not exceeding one hundred dollars, and be liable to said company in treble the amount of the damages thus done, with cost of suit, to be recovered before any court of competent jurisdiction in an action of debt.

SEC. 13. If any person shall pass the gate without having paid the legal toll, with intent to defraud said corporation, he shall forfeit and pay to said company four times the amount of said legal toll, to be recovered by action of debt before any justice of the peace in this State.

SEC. 14. If any toll-gatherer shall unreasonably delay or hinder any passage at the gate, or shall demand or receive more than the legal toll, he shall, for every such offence, upon conviction, be fined in any sum not less than five dollars nor more than five hundred.

SEC. 15. Said bridge shall not be less than twenty-five feet wide.

SEC. 16. If said bridge shall not be commenced within three years from the passage of this act and completed within five years thereafter, this act shall be null and void.

SEC. 17. The navigation of the Wabash river shall be preserved free from obstructions, and said bridge shall be built of sufficient height, or with a sufficient draw-bridge to admit steamboats under or through; and the state hereby reserves the right to improve the navigation of the Wabash river in any manner that may most conduce to the interests of the state.

SEC. 18. Certificates of stock shall be given to the stockholders, which shall be evidence of stock held; they shall be signed by the president and countersigned by the secretary. The stock shall be transferrable only on the books of said company; but such stock shall at all times be holden by, and a lien is hereby granted to, the company, for any debts due from the holders thereof to the company.

SEC. 19. The legislature reserves the right to alter, amend, or repeal this charter whenever the public good may require it.

SEC. 20. This act to be in force from and after its passage.

CHAPTER LXVI.

An Act relating to Road Tax in Perry County.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of chapter sixteen, article fourth, of the revised statutes of 1843, as imposes a highway tax on real estate, is hereby repealed, so far as the county of Perry is concerned.

SEC. 2. And it is hereby left discretionary with the commissioners in and for said county of Perry, whether a highway tax on real estate be imposed.

SEC. 3. All laws and parts of laws coming within the purview of this act, are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

CHAPTER LXVII.

An Act for the relief of James Hardin of Warrick County.

[APPROVED FEBRUARY 11, 1848.]

WHEREAS James Hardin, of Warrick county, has by misfortune been deprived of the use of his limbs; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That James Hardin of Warrick county, have liberty to peddle and sell goods of any kind whatever, without paying license therefor, in any county in the state.

SEC. 2. This act shall be in force from and after its passage.

CHAPTER LXVIII.

An Act to amend an Act entitled "An Act to authorize the people of Fayette and other Counties therein named, to elect their Seminary Trustees."

[APPROVED FEBRUARY 8, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of the above mentioned act be so amended, as that when a vacancy shall happen in the board of trustees, elected under the act to which this is an amendment, either by death or any other cause, then and in that cases the county commissioners where such vacancy shall happen, shall have power to appoint some person or persons to fill such vacancy, and the person or persons thus appointed shall serve out the unexpired term of the trustee or trustees, whose vacancy they are appointed to fill: *Provided*, That the person or persons thus appointed shall possess the qualifications of trustee or trustees.

SEC. 2. It shall be the duty of the clerk of the board of trustees of the respective counties affected by the act to which this is an amendment, to make out an exhibit of the receipts, and expenditures of the seminary fund in their respective counties annually, by the first Monday of June, and publish the same for three weeks next thereafter, in some public paper in the county, (if there be any) if not, then to post the same upon the door of the court house in the respective counties.

SEC. 3. That all the duties of county commissioners in relation to county seminaries, as laid down in article two, chapter fourteen of the revised statutes, commencing at section thirty, to section thirty-six inclusive, be and the same is hereby repealed in the several counties where the people elect their seminary trustees.

SEC. 4. This act shall be in force from and after its passage.

CHAPTER LXIX.

An Act granting to the citizens of the town of Aurora, in the county of Dearborn, a city charter.

[APPROVED FEBRUARY 14, 1843.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the boundaries of the City of Aurora shall be the same as the boundaries of the present town of Aurora, that is to say, the

boundaries of said city shall include all the territory embraced within the recorded plat or plan of said town as the same is recorded in the recorder's office of the county of Dearborn, in the records of the board of commission to perpetuate testimony for the said county of Dearborn, in book B, No. 902, and all the territory embraced within the several enlargements of, or additions to, said town, being all of the inlots and outlots laid off in fractional section four, in township four, of range one west, and in fractional sections thirty-two and thirty-three, in township five, of range one west, in the said county of Dearborn.

SEC. 2. From and after the first day of April, in the year 1848, the people residing in the territory mentioned in the first section of this act, shall become and be a body politic and corporate by the name, style, and title of "The City of Aurora," and in and by such name and title shall be able and capable in law and equity to contract and be contracted with, sue and be sued, complain and defend in any court of competent jurisdiction; and also of purchasing, using, accepting, enjoying, and conveying real and personal estate, and may have and use a common seal, and change, alter, and renew the same at pleasure, and shall have power to survey, mark, and establish the boundaries of said city, and all future enlargements of the same; and shall have, exercise, and enjoy all the rights, powers, immunities, and privileges, and be subject to all the duties and obligations appertaining to a municipal corporation, to ordain, establish, enforce, and put in execution such rules, by-laws, ordinances, and regulations as shall be deemed proper and necessary for the good government of said city, and generally to do all other acts and things which the good of the inhabitants of said city may require not inconsistent with the constitution of the United States, or the constitution and laws of this state.

SEC. 3. The powers of said corporation shall be vested in and exercised by a mayor, a board of councilmen, and such other officers as are hereinafter mentioned and provided for.

SEC. 4. The mayor of said city shall be elected by the qualified voters of the whole city, and shall hold his office for the term of three years from the date of his election, and until his successor is elected and qualified, except where he is elected to fill a vacancy, in which case he shall hold his office until the expiration of the term for which his predecessor was elected, and until his successor is elected and qualified. No person shall be eligible to the office of mayor of said city unless he is a freeholder thereof, and unless he is a qualified voter and has resided therein for the space of at least two years immediately preceding his election. It shall be his duty at all times to be vigilant and active in causing the laws and ordinances of said city to be put in force and duly executed; he shall keep the seal of said city, and shall sign all commissions, licenses, and permits which may be granted by or under the authority of the city council; he shall keep an office in some convenient place in said city, to be provided by the city council; he shall per-

form such duties and exercise such powers as may from time to time devolve upon him by the provisions of this act and the by-laws and ordinances of said city, and generally do and perform such other duties and exercise such other powers as pertain to the office of justice of the peace; he shall, in his judicial capacity, have original and exclusive jurisdiction of all cases for the violation of the laws and ordinances of the said city, and civil and criminal jurisdiction in all cases of which, by the laws of this state, justices of the peace within the township of Center, in the county of Dearborn, are or shall be authorized to take jurisdiction; and it shall be lawful for said mayor to award all such process, and issue all such writs as may be necessary to enforce due administration of justice throughout the said county of Dearborn, and for the lawful exercise of the jurisdiction to him granted by this act: *Provided*, That in all cases brought before said mayor for the violation of the ordinances of said city, the defendant or defendants shall have the right to appeal from the judgment of said mayor to the circuit court of said county of Dearborn, upon executing bond with sufficient security, to be approved by said mayor, in double the amount of such judgment, and the costs in such cause accrued, within ten days after the rendition of such judgment, which bond shall be payable to the State of Indiana, and shall be conditioned for the appearance of such defendant or defendants before the judges of the Dearborn circuit court, on the first day of the next term thereafter of said court, and abide the decision and judgment of said court in such cause, and not depart without leave of said court; and the penalty of such bond, if the same shall be forfeited, shall be recovered in an action in the name of the State of Indiana for the use of said city, and all causes so appealed as aforesaid shall be prosecuted in the said circuit court by indictment in the same manner that appeals from justices of the peace in criminal cases now are or shall be, by the laws of this state, prosecuted; and it shall be sufficient to set forth in the indictment the offence committed in the words of the ordinance, by title only, without reciting such ordinance, and by concluding such indictment "against the peace and dignity of the State of Indiana;" and the court or jury trying such indictment shall, if the defendant or defendants are found guilty, assess such fine against such defendant or defendants as shall be prescribed by the ordinance on which such indictment shall be founded.

SEC. 5. The said mayor shall have power to take and certify, under the seal of said city, all acknowledgments and proofs of deeds of conveyance, mortgages, and other instruments of writing, and to take and certify depositions and to administer oaths in all cases authorized or required by law. The said mayor shall have the same power to issue process in all cases within his jurisdiction, and shall proceed in the same manner, and shall be entitled to the same fees as justices of the peace; he shall keep a docket in which he shall enter all judgments rendered by him, and he shall, at the expiration of his term of office, deliver such docket, together with

all other books and papers pertaining to his office, to his successor; all process issued by said mayor, except subpoenas, shall be sealed with the seal of said city. The said mayor shall exercise all the powers which, by the laws of this state, are or shall be conferred on justices of the peace in said county of Dearborn, and shall have and exercise in all civil and criminal causes the same jurisdiction. And the said mayor shall, in the exercise of such jurisdiction, be in all respects governed by the laws of this state, for the time being, regulating the practice in the courts of justices of the peace in the said county of Dearborn; and in all suits brought before said mayor, except for the violation of the ordinances and regulations of said city, the parties thereto shall have the same rights, as to trial by jury, change of venue, appeal to the circuit court, and in all other respects, as if the suit were pending before a justice of the peace; and all judgments rendered by said mayor, and transcripts thereof certified under the seal of said city, shall have the same force and effect, and shall be carried into effect by final process, *scire facias*, and execution in the same manner as if rendered by a justice of the peace.

SEC. 6. The said mayor shall receive for his services as such, an annual salary, independent of the fees of his office, to be paid out of the city treasury, and to be allowed by the city council, which salary shall not be less than twenty-five nor more than fifty dollars per annum, to be paid quarterly as the services of said mayor are rendered.

SEC. 7. The said mayor shall, before entering upon the discharge of the duties of his office, execute a bond with sufficient security in the penal sum of five thousand dollars, payable to the State of Indiana, conditioned for the faithful discharge of the duties of his office as mayor and ex-officio justice of the peace, which said bond shall be approved by and deposited with the clerk of the Dearborn circuit court.

SEC. 8. The territory of said city shall be divided into five wards as follows, to-wit:

The first ward shall embrace all the territory of said city lying south of Fourth street in said city, and south of the alley extending from the west end of said street.

The second ward shall embrace all the territory of said city lying between Third and Fourth streets in said city, and all the out lots lying on the north side of the road or alley leading from said city, and from the west end of fourth street to the grave yard.

The third ward shall embrace all the territory of said city lying between Second and Third streets in said city.

The fourth ward shall embrace all the territory of said city lying between second street in said city and Hogan creek.

The fifth ward shall embrace all the territory of said city lying north of Hogan creek.

Each of said wards shall be represented by one councilman who shall reside therein and shall be a qualified voter thereof, and the

city council shall have full power to alter the boundaries of said wards, and increase or diminish the number of wards in said city, as the public good may from time to time require.

SEC. 9. That the qualified electors of each ward in said city shall on the first Monday in April annually elect one councilman, who shall have resided in said city for one year next preceeding his election, he shall be a qualified voter of said city, and shall reside in and be an inhabitant of the ward in which he shall be elected, and the mayor and councilman of said city when duly organized and assembled together shall constitute the city council; a majority of the councilmen shall be necessary to constitute a quorum for the transaction of business; they shall be the judges of the election returns, and of the qualifications of their own members, they shall determine the rules of their own proceedings, and shall keep a record thereof, which shall be open to the inspection of every citizen; they may compel the attendance of their members under proper penalties; the mayor, when present, shall preside at all the meetings of the city council, and in case of a tie vote shall give the casting vote, except that in making laws or ordinances he shall have no vote; in the absence of the mayor the city council shall appoint one of their own number to preside for the time being, who, while presiding, shall have the right to vote in all cases; the councilmen so elected as provided for in this act shall meet at the council chamber or some other convenient place in said city on the second Monday in April next after their election, and take an oath of office before the mayor of said city, or some other person authorised to administer oaths, and the certificate of the election of each councilman, together with a certificate of his oath of office, shall be spread upon the records of said city council.

SEC. 10. The city council shall provide the time and place for holding meetings not herein provided for, which shall at all times be open to the public; the said city council shall have the custody, care, and superintendence, management, and control of all the real and personal estate and other property belonging to said city, and of all real and personal estate, money, funds, and revenue which from time to time may be owned by, or of right belong to said city with full power to purchase, hold, possess, use, occupy, sell, and convey the same for the use and benefit of said city: *Provided*, That the said city council shall not have the power to sell or in any way dispose of any real estate, or interest therein, of which the said city shall at any time be the owner, or of which the said city shall at any time be seized, unless the qualified voters of said city, in pursuance of ten days' previous notice, given by order of the city council, published either in some public newspaper of said city, or by posting up a written or printed notice thereof in some one public place in each of the wards of said city, setting forth the time, place, and purpose of voting, shall, by a majority on written or printed ballots given, express their consent thereto, and if a majority of all the votes cast in pursuance with said notice shall be in favor of such

sale, then the city council shall have power to make such sale, and the return of such voting, spread upon the records of said city by order of the city council, shall, if favorable to such sale, be sufficient evidence of such consent: *Provided, further*, That whenever the public good may require it, the said city council shall have power to grant leases on such terms as they may deem proper, of any of the real estate, wharves, and landings of said city for any period of time not exceeding ten years.

SEC. 11. The said city council shall have the power, and it is hereby made their duty to make and publish from time to time all such ordinances as shall be necessary to secure said city and the inhabitants thereof against injuries by fire, thieves, robbers, burglars, and all other persons violating the public peace, for the suppression of affrays, riots, and gaming, and indecent and disorderly conduct, for the punishment of all lewd and lascivious behavior in the streets and other public places of said city, and for the punishment of all vagrants and idle persons; they shall have power from time to time to make and publish all such laws and ordinances as to them shall seem necessary to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of said city and the inhabitants thereof; to impose fines, forfeitures, and penalties on all persons violating the laws and ordinances of said city, and provide for the prosecution of all such persons, and the recovery and collection of all such fines, forfeitures, and penalties as they may impose.

SEC. 12. The city council shall have power to establish a board of health for said city, to invest it with such powers and impose on it such duties as shall be necessary to secure said city and the inhabitants thereof from the evils and calamities of malignant, infectious, and contagious diseases, and provide for the proper organization of such board, and the appointment of the proper and necessary officers thereof, and make such by-laws, rules, and regulations for its government and support as shall be necessary for the prompt and efficient exercise of its powers and the performance of its duties; to establish a watch, and organize the same under the general superintendence of the marshal of said city; they shall establish and organize all such fire companies and provide them with proper engines, hose, and such other implements as shall be necessary to extinguish fires and preserve the property of the inhabitants of said city from conflagration, and provide such by-laws and ordinances for the government thereof, as they shall deem expedient and proper. The city council shall erect, establish, and regulate the markets and market places in said city, and shall make all such ordinances and by-laws for the government and conduct of such markets and market places, and the sale of provisions therein, as they may deem expedient and proper.

SEC. 13. The said city council shall have power to establish, construct, and regulate the landing places and wharves within the limits of said city, and fix the rate of landing, wharfage, and dock-

age of steamboats, boats, rafts, and other water craft, and all goods, wares, merchandise, produce, and other articles that may be moored at, landed on, or taken from any landing or wharf belonging to said city or private individual, such rates being the same both at the wharves and landings owned by said city and by private persons.

SEC. 14. The said city council shall have power and it shall be their duty to regulate by good and wholesome laws and ordinances for that purpose: *Provided*, All taverns, ale and porter shops, coffee houses, and all other houses of entertainment in said city, all theatrical exhibitions and public shows, and all exhibitions of whatever name and nature to which admission is obtained by the payment of money, or any other reward, the sale of horses and other domestic animals at public auction in the streets, lanes, alleys, and commons in said city, and all ferries across the Ohio river from said city to the opposite shore, and impose reasonable fines and penalties for the violation of such laws or ordinances.

SEC. 15. Said city council shall have full and exclusive power to grant or refuse license to tavern keepers, inn holders, raitailers of spiritous liquors by less quantity than a quart at a time; keepers of ale and porter houses and shops, and all other places of public entertainment, showmen, keepers and managers of theatrical exhibitions, and all other exhibitions for money or other reward, auctioneers for the sale of horses or other domestic animals at public auction in the streets, lanes, alleys, or commons of said city, and keepers of ferries across the Ohio river from said city to the opposite shore; and in granting such license it shall be lawful for said city council to demand and receive such sums of money as they shall think proper or expedient, and to annex thereto such reasonable terms and conditions, as they may think proper, relative to the time, place, and other circumstances under which such license shall be acted upon, and in their opinion the peace, order, and quiet of said city may require, and for the violation of such reasonable terms and conditions as aforesaid, the said city council shall have power to suspend or revoke such license whenever the good order and quiet of said city may require it, in such manner as shall be provided for by ordinance: *Provided*, Said city council shall not have power to grant any license for the sale of spiritous liquors in less quantities than a quart at a time in said city, under fifty dollars.

SEC. 16. The said city council shall have power, and they are hereby authorized to require and compel the abatement and removal of all nuisances within the limits of said city, under such regulations as they shall provide by ordinance, and to effect this object, when such nuisance shall be of a permanent character, the said city council may at any time order notice to be given to the proprietor or proprietors, his, her, or their agents, and to any non-resident proprietor or proprietors who may have no agent in said city, by two weekly publications in some public newspaper of said city, or by posting up written or printed copies of such order and notice in two public places in the proper ward of said city, for

the space of ten days, to remove and abate any nuisance existing, erected, allowed, or maintained on his, her, or their premises within said city, specifying in such order and notice a reasonable time within which the same shall be removed or abated; and if any such proprietor or proprietors shall refuse or neglect to remove or abate such nuisance within the time specified in any such order, the said city council shall direct the city marshal, at the expense of such proprietor or proprietors, to remove or abate the same; and shall provide by ordinance for the collection of such costs and expenses as may be therein incurred: *Provided*, That if such proprietor or proprietors, his, her, or their agent reside in said city, such order shall be served personally or by copy left at his, her, or their place of residence, or at the residence of such agent: *And, Provided further*, That if the public good shall require it, or if such nuisance shall not be of a permanent character, no notice shall be necessary, but the said city council shall direct the marshal to cause the same to be abated or removed immediately, at the expense of the person or persons causing, erecting, or maintaining the same; and it shall be the duty of said city council to provide by ordinance with reasonable penalties for the punishment of all persons causing, permitting, erecting or maintaining a nuisance or nuisances within said city.

SEC. 17. The said city council shall cause the streets, lanes and alleys, public squares, and commons of said city, to be kept open and in repair, and free from all kind of nuisance; but it shall be lawful for them to continue any building or erection now standing thereon, if in their opinion and interests and general health of the city, and individual rights will not be affected or injured thereby, *Provided*, That whenever any public square or other real estate of said city, shall be leased by said city council under the authority of this act, the lease shall specify the object or purpose to which such public square, or other real estate shall be applied, and said city council shall cause such public square or other real estate, to be kept as open and in as good repair and as free from obstruction, as the same can be, subject to the purpose for which the same shall have been leased; they shall have power, whenever the public convenience or safety shall require it; to prohibit hogs, cattle, horses, and other animals from running at large in the streets, lanes, alleys, commons, and other public places in said city, and shall have power to license and regulate all carts, drays, wagons, and every description of two and four-wheeled carriages which may be kept in said city for hire, all livery stables, brokers and loan offices, and to provide for the inspection and the appointment of inspectors of all articles of domestic growth, produce, or manufacture, which may be brought to said city, or sold to purchasers therein for exportation.

SEC. 18. The said city council whenever a majority of the qualified voters of said city require it shall have power, and they are hereby authorized to take stock in any chartered company for making roads to said city, or for watering or lighting said city:

Provided, That no such stock shall be subscribed on the part of the city, until a majority of the qualified voters thereof have signified their assent thereto, by expressing upon their tickets at any annual election, that they are in favor of the subscription for such stock by the city council; and to raise funds for the payment of such stock the said city council shall have power and authority to make and sell their bonds under the seal of said corporation, payable in such manner and at such time as they may deem proper and expedient, and bearing interest at the rate of six per centum per annum, payable annually, and therein pledge to the holders of such bonds that the stock so taken, with all the dividends thereon accruing, shall be held and firmly bound for the payment of the said bonds and accruing interest on the same, and that the interest coupons attached to said bonds, shall be received at all times when due, for the payment of all taxes due to said city, the amount of stock subscribed in any one chartered company, not to exceed fifty thousand dollars.

SEC. 19. For the payment of revenue, the city council shall have power to levy and caused to be assessed and collected once in each year, an ad valorem tax upon all property both real and personal, within the city, and on all money and capital which is or may be subject to taxation for county purposes in said county of Dearborn under any law of this state, and also a poll tax of not exceeding one dollar upon every male inhabitant of said city of the age of twenty-one years or upwards, and under the age of fifty years: *Provided*, That such ad valorem tax shall not exceed one per centum upon the value of the property, capital or money taxed, and the said city council shall have the power to levy and cause to be assessed and collected, a special tax on dogs and bitches; and a portion of the revenue raised under the provisions of this act and all or any part of the fines and penalties to be collected under this act, may be appropriated at the discretion of the city council for the support, of common schools within said city.

SEC. 20. The qualified voters of said city shall, on the first Monday in April annually, elect a marshal, who shall hold his office for the term of one year, and until his successor is elected and qualified. The said marshal shall be the principal ministerial officer of said mayor, and, as such, invested with all the powers of a sheriff and constable, entitled to the same fees, and subject to the same liabilities, and amercements; he shall execute all process and return the same which may be directed to him by said mayor; and when necessary may serve such process in any part of Dearborn county; it shall be his duty to suppress all riots, disturbances, and breaches of the peace, to apprehend all rioters, disorderly persons, and disturbers of the public peace in said city, and all persons in the act of committing any indictable offence against the laws of this State, or fleeing from justice after having committed such offence, and him, her, or them forthwith to take into custody, and bring before the mayor of said city for examination; he shall from time to time, perform such duties as may be required of him by the

city council, or as may be imposed on him by the ordinances and laws of said city; he may appoint one or more deputies and discharge them from office at pleasure, being always responsible for the correct discharge of their duties. Before entering on the duties of his office, he shall execute bond with security to the acceptance of the city council, payable to said city in such penalty as said city council shall require, conditional for the faithful discharge of his duties. All constables shall be ministerial officers of the mayor's court, in like manner as they are of justices courts, and shall be bound in like manner to execute his process.

SEC. 21. The qualified voters of said city shall, on the first Monday in April annually, elect one city clerk, an assessor, a collector, and treasurer, who shall severally discharge the respective duties imposed upon them by this act, each of whom, before entering upon his duties, shall execute bond with security to be approved by said city council, with such penalty as they may think proper, payable to said city, conditioned for the faithful discharge of the duties of his office.

SEC. 22. No person shall be eligible to the office of marshal, clerk, assessor, auditor, or treasurer of said city, unless he shall have resided in said city at least one year immediately preceding the time of his election, and unless he is at the time of his election a qualified voter of said city.

SEC. 23. All elections shall be by ballot, and all elections (except to fill vacancies as in this act provided) shall be held on the first Monday in April annually, a poll shall be opened in each ward for the reception of votes, and every free white male citizen of the age of twenty-one years and upwards, who has resided in this state one year, and in the said city six months, and in the ward in which he offers to vote ten days next preceding such elections, shall be entitled to a vote in the ward in which he resides, and not in any other ward.

SEC. 24. It shall be the duty of the city council of said city, to designate some particular place in each ward for holding elections, which place may be changed from time to time as the city council shall think proper. It shall be the duty of the city council annually to appoint for each ward in said city, from among the qualified voters of such ward, an inspector of elections, who shall hold his office until his successor is chosen, whose duty it shall be, on the first Monday in April annually, or at any other time when an election is to be held, to attend at the place of holding elections in his ward and take to himself, previous to the hour of opening the polls, two qualified voters of his ward, who, together with himself, shall constitute the judges of election for such ward, which judges shall appoint two suitable persons clerks of such election, and the said inspector, judges and clerks shall, before entering on their duties, take an oath, which may be administered by the inspector to the judges and clerks, and by one of the judges to the inspector, faithfully and impartially to discharge the duties assigned them.

SEC. 25. That in all elections for city officers, it shall be the duty of the mayor to issue a proclamation to the qualified voters of said city, or to those of the respective wards as the case may require, setting forth the time of such election, the place or places where the same shall be held, the officer or officers to be chosen, and cause such proclamation to be published in some public newspaper of said city, or copies thereof to be posted up in one public place in each ward of said city, or in the proper ward, as the case may be, for at least ten days previous to such election; the polls for all such elections shall be opened between nine and ten o'clock, A. M., and continue open until four o'clock, P. M., of the same day, and such elections shall in all things be conducted agreeably to the laws of this state regulating township elections in the county of Dearborn for the time being.

SEC. 26. When the votes are all counted and read off, the inspector shall declare the person receiving the highest number of votes for councilman, duly elected councilman for that ward; and said inspector shall make and deliver to him a certificate to that effect, signed by the inspector and attested by both the clerks; but should two or more persons be found to have received an equal and the highest number of votes, then the inspector and judges shall determine by lot, in a fair and impartial manner, who of such persons shall be the councilman, and give him a certificate as aforesaid.

SEC. 27. In case of an election for mayor, marshal, clerk, assessor, collector, or treasurer for said city, the inspector and judges of each ward shall make out and sign a certificate, stating, in words at full length, the names of the several persons voted for, and designating the office to fill which he or they were voted for, and the number of votes received by each, for the office or offices respectively, to fill which they were respectively voted for, which certificate shall be placed in the hands of one of the judges or inspector who have signed the same; and on the Wednesday next succeeding such election between the hours of ten o'clock, A. M., and three o'clock, P. M., the judges and inspectors of the several wards of said city, holding such certificates, shall meet at the council chamber or such other place in said city as may be designated by the city council, and compare their several certificates, and the persons having the highest number of votes for the offices respectively, for which they were respectively voted to fill, shall be declared duly elected to fill such offices respectively. And the judges and inspectors so met as aforesaid, shall give to each person so elected a certificate of his election to the office which he is elected to fill, which certificate shall be signed by all the judges and inspectors so required to meet as aforesaid; but should two or more persons be found to have received an equal and the highest number of votes for the same office, it shall be the duty of said inspectors and judges so convened as aforesaid to determine by lot who of such persons shall fill such office and give him a certificate of his election to such office as aforesaid.

SEC. 28. It shall be the duty of the inspector of each ward, within four days after any election, to file with the clerk of said city one of the poll books and tally papers of his ward, which shall be preserved by said city clerk and filed with the papers of his office.

SEC. 29. It shall be the duty of every person elected to fill any office under the provisions of this act, before entering upon the duties of such office, to take an oath, before any person authorized by law to administer oaths, faithfully and impartially to discharge the duties of his office; and such oath shall be certified on the certificate of his election; and every person elected under the provisions of this act to fill any office herein provided for, shall, within ten days after his election, cause himself to be qualified as herein provided, to enter upon the discharge of the duties of his office, and in default thereof, the office to which he shall have been elected shall be deemed and considered in law vacant.

SEC. 30. Whenever any vacancy shall occur in the office of marshal, clerk, assessor, collector, or treasurer of said city, from any cause whatever, it shall be the duty of the city council to appoint some suitable person to fill such office until the next annual election, and until his successor is elected and qualified who shall be qualified before entering upon the discharge of the duties of his office by taking the same oath and executing bond in like manner, as is hereinbefore provided for the qualification of a person elected to such office.

SEC. 31. If the mayor shall remove from or reside out of said city his office shall thereby become and be vacant; and if any councilman shall remove from or reside out of his ward, for which he was elected to represent, his office shall thereby become and be vacant; and in case of a vacancy, from any cause whatever, in the office of mayor or councilman, such vacancy shall be filled by a special election, to be held at such time as may be designated by the city council, and notice thereof given by proclamation, as provided in the twenty-fifth section of this act, except that in case the office of mayor should become vacant as aforesaid, then the proclamation required by the twenty-fifth section of this act to be made by the mayor shall be made by the councilman acting as president of the city council for the time being; all other offices created by this act shall become vacant in case the incumbent thereof removes from or resides out of said city.

SEC. 32. It shall be the duty of the clerk of said city to safely keep and preserve all records, books, and papers belonging to the city of Aurora, and appertaining to or deposited in his office, entire and without injury, and to hand them over, together with all other property of said city in his hands, to his successor, and to do and perform all other things and duties that he may be required to do by the by-laws, rules, ordinances, and regulations which may be made, passed, ordained, and established by said city council.

SEC. 33. It shall be the duty of the city council, after the second Monday in April and before the first Monday in May annually, to

fix and determine what rate of tax shall be levied on the real and personal property within said city, and on the money and capital within said city, subject to taxation according to the provisions of the nineteenth section of this act: and they shall also fix and determine what poll tax, if any, shall be levied, and also whether any, and if any, what amount of tax shall be levied on dogs and bitches.

SEC. 34. It shall be the duty of the city assessor, after having filed the bond and taken the oath required of him by the provisions of this act, to proceed forthwith, immediately after the second Monday in April annually, to make out a full and fair list of all persons and all real and personal estate, and all polls to be taxed or subject to taxation, placing the names of persons in alphabetical order, and setting opposite the name of each person a description of his or her real estate and its value, and the value of his or her personal property subject to taxation, according to the provisions of the eighteenth section of this act, including improvements on the real estate. It shall be the duty of said assessor to carry out in separate columns the value of the personal property of each person, and the value of each lot or part of a lot of which he may be the owner, setting opposite each lot or part of a lot its value without improvements, and carrying out separately the value of the improvements on each lot or part of lot; if the name of the owner of any lot or part of a lot be unknown to the assessor, he shall state it in the proper column as "unknown," and if there should be within said city any pieces or parcels of land not designated by a number on the proper plot, then the said assessor shall describe such piece or parcel of land in such manner as to designate its location in said city; it shall also be the duty of said assessor to make out a list of all the lots in said city in numerical order, and setting opposite each lot the appraised value thereof without improvements, and in a separate column the value of the improvements on each lot, unless the lot be owned in severalty by two or more persons, in which case he shall put down in such list each part of such lot so owned, with the value of such part, and the value of the improvement on such part, opposite the same; and in case there be parcels of land in said city not designated by numbers, then he shall designate such parcels of land as above in this section provided; and the said assessment roll and numerical list shall be completed and returned by the assessor to the clerk of the city council by the first Monday in June next after the election or appointment of such assessor, and the said assessor shall have full power and authority to administer an oath to any person having personal property, money, or capital subject to taxation under the provisions of this act, requiring such person to answer to such questions as he may ask touching the value thereof.

SEC. 35. After the return of said assessment roll, and before the first Monday in July annually, it shall be the duty of the city council to cause their clerk to make out a full, fair, and complete copy

and duplicate of said assessment roll, and shall carry out on said duplicate the amount of tax chargeable against each person named, and against each piece of property listed to persons "unknown," according to the rate fixed by the city council under the provisions of the second section of this act, to which copy or duplicate of the assessment roll for that year the said clerk shall attach a certificate under his hand, setting forth what property for that year was to be taxed under the order of the city council, and at what rate, and certifying that such copy or duplicate is a correct copy of the assessment roll for that year on file in his office, as revised and corrected by the city council, to all of which shall be added by the mayor, (or in case of his absence or of a vacancy in the office of mayor at that time) by the president of the city council for the time being, a precept under the seal of said city, directed to the collector of said city, and commanding him that of the goods and chattels of all and every person and persons named in said duplicate or tax list, he cause to be made by distress and sale thereof the amount of tax charged against him, her, or them for, or on account of, a poll or personal property, and that of the particular lot, part of a lot, or parcel of land in said duplicate or tax list named, he make the tax charged thereon by levy and sale thereof, or by sale of so much of such lot, or part of a lot, or parcel of land as may be necessary to pay such tax, and the costs and charges of such sale, and make return of his doings by the first Monday in November thereafter next ensuing.

SEC. 36. It shall be the duty of the city council to meet on the first Monday in June annually and hear all complaints touching, and correct all errors in, the assessment roll for that year, continuing from day to day in the discharge of that duty, if necessary, so that right and justice may be done.

SEC. 37. All taxes shall be a lien upon the real estate of said city upon which it has been assumed, from the time the assessment roll is returned and corrected, to the same extent as judgments of courts of record, and such lien shall continue until the same is paid, and all poll taxes and taxes on personal property shall have a preference of all private claims.

SEC. 38. By the first Monday in July annually said duplicate or tax list shall be completed as aforesaid, and placed in the hands of the city collector, whose duty it shall be to proceed forthwith to the collection of the taxes in said duplicate or tax list contained; such collector may appoint as many deputies as he may think proper, being responsible for their acts.

SEC. 39. The said collector shall not be required, in any instance, to make a demand for the taxes from the person charged therewith, but may do so at his discretion; and it shall be the duty of said collector to keep an office in said city open at all reasonable hours for the reception of taxes, from and after said duplicate is placed in his hands until the same is returned as hereinafter provided.

SEC. 40. After the first Monday in September annually, and before the first Monday in November next succeeding, it shall be the duty of the collector to make the poll tax and tax on personal property which may remain unpaid by seizure and sale of the goods and chattels of the person or persons liable therefor, to satisfy such tax and costs and charges of sale, giving six days' notice of the time and place of such sale, either by publication in some public newspaper in said city, or by posting up three written or printed notices thereof in three public places in said city; and it shall be the duty of the said collector, on the first Monday in October annually, to make out a list of all lots, and parts of lots, and parcels of land in said city upon which the taxes have not been paid, with the names of the owners thereof, and the amount of tax due on each lot, or part of a lot, or other parcel of land, in the same manner that the same are entered and set down in his duplicate or tax list, and to attach thereunto a notice specifying that unless the taxes, together with the costs of levying and advertising, with which such lots, and parts of lots, and other parcels of land shall be chargeable, shall be paid on or before the first Monday in November next succeeding, that he will proceed on the said first Monday in November, between the hours of ten o'clock A. M., and four o'clock P. M., of said day, at some suitable place in said city, to be designated in said notice, to sell such lots, and parts of lots, and other parcels of land in said list designated, upon which the tax and costs may still remain unpaid, or so much thereof as may be necessary to pay and satisfy such tax and costs, which list, with said notice thereunto attached, shall be published for three weeks successively preceding the first Monday in November annually, the first publication to be subsequent to the first Monday in October, in some public newspaper printed and published in said city or in said county of Dearborn.

SEC. 41. It shall be the duty of said collector to proceed on the said first Monday in November annually between the hours in the last preceding section designated, at the place designated in the notice provided for in the last preceding section, and offer for sale all lots and parts of lots, and other parcels of land specified in such list upon which the tax and costs still remain unpaid, selling the lowest possible quantity that any bidder will take and pay the amount of taxes and costs due on the whole of such lot, part of a lot or other tract of land, and when any bidder shall offer to take less than the entire lot or part of a lot, or other tract of land offered for sale, it shall be the duty of said collector to designate and declare in what manner the division shall be made. Each lot, part of a lot, or other parcel of land, shall be offered and sold separately, except where more than one lot is charged to the same person, in which case all of such lots charged to the same person, shall be offered together, and the smallest possible quantity thereof, sold to pay all the tax and costs due on the whole; and having made a sale to any person of any lot or part of a lot, or other parcel of land,

the said collector shall make and deliver to such purchaser a certificate of such purchase, specifying the particular piece or parcel of land to him sold, and the amount paid therefor. Any person owning such lot, part of a lot, or parcel of land, which may be sold as aforesaid, may at any time before the expiration of two years from and after such sale, redeem the same by paying to the purchaser, his heirs or assigns, the amount paid therefor, together with all subsequent taxes paid, with fifty per centum per annum interest on the whole amount so paid, or by paying the same into the treasury of said corporation for the use of such purchaser his heirs and assigns.

SEC. 42. After the expiration of two years from and after such sale, it shall be the duty of the collector of said city, for the time being, on the application of such purchaser, his heirs, or assigns, holding a certificate for any lot, part of a lot, or other tract of land sold under the provisions of the last preceding section of this act and unredeemed, to execute to such purchaser, his heirs or assigns, holding such certificate, a deed of conveyance for the lot or part of a lot, or other parcel of land in such certificate described, which deed shall be signed and sealed by such collector with an ink scrawl and acknowledged before the mayor of said city, and shall be witnessed by the clerk of said city, and shall vest in the grantee thereof and his heirs and assigns, an absolute estate in fee simple, in and to [the] premises described in such deed, and shall be admitted to record in like manner and with like effect as other conveyances of real estate, and shall be conclusive evidence of the regularity of the collector's sale, and shall not be set aside or held invalid in any court, except upon proof of one or more of the following facts viz: first, that the lot, or part of a lot, or other parcel of land in such deed designated was not subject to be taxed; second, that the taxes charged or properly chargeable thereon, were actually paid to the collector or his deputy, or tendered and refused, before the sale; third, that the same was redeemed as herein provided, within two years from the day on which it was sold by the collector. Upon the execution as herein provided, of any deed, the certificate for the premises for which such deed shall be executed, shall be handed by such collector to the clerk of said city, who shall file the same in his office.

SEC. 43. It shall be the duty of said collector, on the second Monday in November annually, to return to the clerk of said city, a list of all lots, parts of lots, and other parcels of land sold by him on the Monday next preceding; setting forth the persons to whom they were sold and the amount paid therefor, and the amount of taxes and costs with which the same were severally chargeable; which list shall be recorded by said clerk in a book to be provided for that purpose by the city council, and whenever any lot or part of a lot or other parcel of land sold as aforesaid shall be redeemed as aforesaid, the receipt, or certificate of the redemption thereof, shall be filed by the party redeeming in the office of said clerk, who

shall enter the same as redeemed on the record aforesaid and give a certificate thereof to the person redeeming the same, for which services said clerk shall be entitled to demand and receive from the person redeeming, the sum of twenty-five cents.

SEC. 44. It shall be the duty of said collector to apportion the costs of advertising the delinquent list, equally amongst all the lots parts of lots, and other parcels of land therein contained, without reference to value, and said collector shall be entitled to receive the sum of twenty-five cents for levying upon each lot, part of a lot, or other parcel of land contained in said list, and the sum of twenty five cents for each certificate of sale, and two dollars for each deed of conveyance.

SEC. 45. It shall be the duty of said collector on or by the second Monday in November annually to pay over all moneys collected by him, to the treasurer of said city, and to make a full and final statement of his collectorship, and a return of the duplicate and precept, to him delivered as aforesaid, with a full account of his doings in the premises, in which return he shall state fully the amount of taxes by him received and collected; the amount remaining unpaid with the names of the defaulters, and the reason of his failing to collect the same, the truth of which statement shall be verified by the affidavit of said collector, and to the tax list of the next succeeding year it shall be lawful to add the tax so remaining unpaid as aforesaid, which shall be collected in like manner as if assessed in such year.

SEC. 46. All moneys raised, recovered, received or collected by means of any tax, license, fine, forfeiture or otherwise or which may belong to said city, shall be paid into the city treasury, and shall not be drawn therefrom, except by order or authority of the city council, to be signed by the mayor or other presiding officer and attested by the clerk.

SEC. 47. Whenever the owners of lots on any street or section of street shall be desirous of making any improvement on such street or section of street by grading, graveling, paving, curbing or guttering, or any other improvements whatever, and the owners of two thirds of the lots on such street or section of street, by themselves or agents representing two thirds of the whole number of feet on each side of such street or section of street, shall, by petition to the city council, setting forth plainly and distinctly the improvement wanted or contemplated to be made, praying that such improvement may be made, it shall be the duty of the city council to cause the same to be done, in the best and most economical manner, agreeable to the wishes of the petitioners, as set forth in such petition, and the expenses of such improvement shall be assessed and levied on all the lots fronting on such street or section of street, equally per front foot, for the distance such improvement may be made; it shall be the duty of the clerk of said city to enter such petition in the records of said city at full length, with the names of the petitioners, and the number of feet owned by each; and the said city council

shall by special ordinance provide for the collection, by the collector of said city, of the amount necessary to meet the expenses of all such improvements, and, in case of non-payment, for the sale of such lots or fractions of lots on which such taxes remain unpaid after the time designated by such ordinance, within which the same should be paid, and designating in such ordinance the time when, and the place at which the said collector should proceed to make such sale; such sale shall be conducted in the same manner and the same notice shall be given of the time and place thereof, and certificates shall be given by said collector for the lots or fractions of lots sold, to the purchaser or purchasers thereof, and deeds executed thereon in like manner and with like effect, and the lots or fractions of lots sold shall be subject to redemption in like manner as is provided for in the 40th, 41st, 42d, and 43d sections of this act relative to the sale of delinquent lots; and it shall be the duty of the clerk of said city, upon the passage as aforesaid of such special ordinance, to deliver to the collector of said city a certified copy thereof, together with a list of the lots fronting on such street or section of street, and the names of the owners thereof, and the number of feet of ground owned by each, fronting on such street or section of street, and the amount assessed and levied on each lot or fraction of a lot, by the city council, to meet the expenses of such improvements, which shall be sufficient authority for the said collector to proceed under the provisions of such ordinance, to collect the amount of such assessment and levy, as herein before directed; and upon the application as aforesaid by petition of the freeholders or their agents, owning or representing two-thirds of [the] whole number of feet of ground on either side of any street or section of a street, praying for the grading, curbing, guttering, and paving of the side walk, extending along such side of such street or section of a street, or for any or either of such improvements, it shall be the duty of the city council to provide by special ordinance for the making of the improvement or improvements prayed for in such petition, agreeably to the prayer of such petitioners; and by such ordinance to order and direct, that each person owning any lots, or lot, or fraction of a lot, fronting on such side of such street or section of a street, shall grade, curb, gutter, and pave such part of such side walk, as may adjoin his, her, or their lots, lot, or fraction of a lot, or shall make either or any of such improvements, as the case may be, according to the prayer of such petition; and the city council shall provide in such ordinance for the width and grade of such side walk, and the manner in which such improvement shall be made, and the time within which it shall be completed; and shall make it the duty of the marshal, or appoint some other suitable person, to superintend the making of such improvement, and shall also provide by such ordinance, or by some subsequent ordinance, for the making by said city of such improvement, in front of such lots, lot, or fraction of a lot, as the owner or owners of which has or have failed or neglected to complete such improvement in

front of as ordered and directed in such ordinance, within the time therein specified, and for the sale of such lots, lot, or fraction of a lot to raise the amount necessary to meet and satisfy the expenses incurred by said city, in making such improvement, in front of such lots, lot, or fraction of a lot; and such ordinance shall also designate the time when, and the place at which, such sale of such lots, lot or fraction of a lot shall be made, unless redeemed by the payment of the amount assessed on such lots, lot, or fraction of a lot, by the city council, to meet the expense of such improvements, and the cost of the proceeding, that may have accrued up to the time of such payment, before the day of sale; and such sale shall in all respects be governed by the foregoing provisions of this act relative to other sales made by the collector of said city; and certificates shall be given and deeds executed in the same manner and with like effect, as in other sales of lots made by the collector of said city; and the lots, lot, or fraction of a lot sold, shall be subject to redemption in the same manner and within the same time as in other cases of sales of lots by the collector of said city under the provisions of this act, and it shall be the duty of the clerk of said city, so soon as the city council shall have ascertained and determined the amount of the expenses that may have been, or that will be incurred by said city in making such improvement in front of any lots, lot, or fraction of a lot, the owner or owners of which has or have failed to complete such improvement, in compliance with the order and direction of the city council, to deliver to the collector of said city a certified list of such lots, lot, or fraction of a lot so delinquent, and the amount assessed by the city council on each, together with the name or names of the owner or owners thereof, if known, as also a certified copy of the ordinance aforesaid, making provisions for the sale thereof, which shall be sufficient authority for the said collector to proceed, and collect the amount assessed on each lot or fraction of a lot, by sale thereof, as herein provided.

SEC. 48. The city council shall have the control and management of all the property, real and personal, belonging to said city, and of all matters relating to the finances thereof, and shall have full power and authority, for and within said city, and for the government thereof, to make, establish, publish, alter, modify, amend, and repeal by-laws, rules, ordinances, and regulations, in addition to the powers herein otherwise granted, for the following purposes, and on the following subjects, to wit:

First. To restrain and prohibit all kinds of gaming, and every kind of fraudulent and immoral practice or device within said city.

Second. To restrain and prohibit the selling or bartering of any spirituous liquors, wine, cider, beer, ale or porter, to be drank in or about the house, shop, store, grocery, out-house, yard, or garden, of the person or persons selling or bartering the same, unless licensed so to do, according to the by-laws and ordinances passed and ordained by the city council.

Third. To restrain and prohibit the selling, bartering, or giving

away, of ardent spirits or intoxicating liquors of any kind whatever to any person in a state of intoxication, or who may be known to be in the habit of getting drunk, or to any person under the age of twenty-one years, without the consent of his or her parent or guardian.

Fourth. To prevent drunkenness, public indecency, noise, disturbance, and disorderly assemblies in the streets, and other public places in said city.

Fifth. To suppress and restrain disorderly houses of all kinds; houses of ill fame, billiard, and other gaming tables.

Sixth. To compel the owner or occupant of any piece of ground, grocery, tallow chandlery, soap factory, tannery, stable, barn, privy, sewer, slaughter house, or other place, to cleanse the same from time to time, as often as may be deemed necessary, for the health, comfort, and convenience of the inhabitants of said city, and to remove, abate, or destroy the cause which renders such house or place unhealthy or uncomfortable.

Seventh. To direct the location of all powder houses, slaughter houses, tallow chandlers' shops, soap factories, and all other houses, factories, and shops, that may detract from the health or comfort of the inhabitants of said city, and if thought necessary to prohibit altogether the erection or continuance of all or any such shops, factories, houses and establishments within the limits of said city.

Eighth. To prevent horse-racing and immoderate riding or driving of horses or other animals in the streets, and to prevent horses or other animals, hitched or attached to carts, wagons, hacks, and other carriages from being left in the streets without being secured in such manner as to prevent their running away with such vehicle or carriage.

Ninth. To prevent the incumbering of the streets, alleys, sidewalks, wharves, landings, market houses, and public grounds, and buildings, with carriages, drays, wagons, carts, boxes, barrels, lumber, timber, fire wood, coal, or other substance or materials whatsoever.

Tenth. To regulate and determine the times and places of bathing in the Ohio river and Hogan creek, and to prohibit bathing therein at any other times or places.

Eleventh. To restrain and punish vagrants, mendicants, street beggars, and common prostitutes.

Twelfth. To restrain, regulate and prohibit the running at large in said city of cattle, of horses, swine, sheep, goats, and other animals, and to authorize distraining, impounding, and selling the same, for the penalty incurred and the costs of proceeding.

Thirteenth. To prevent, restrain and regulate the running at large of dogs and bitches, and to authorize the destruction of the same when at large, contrary to the by-laws and ordinances of the city.

Fourteenth. To prohibit all persons from permitting any carcass of any dead animal, or other unsound, offensive, or unwholesome

material or substance, either animal or vegetable, to remain on his, her, or their premise or premises by them occupied within the limits of said city, or within one-half mile of the limits thereof, and to authorize the removal or destruction thereof by the proper officer, at his, her, or their expense, if necessary.

Fifteenth. To prohibit the rolling of hoops, flying of kites, playing at ball, long bullets; shooting or using fire arms or fire crackers, or unnecessarily using any other thing, instrument or practice, having a tendency to annoy, endanger, injure or destroy persons or property within said city, or to frighten teams or horses within said city.

Sixteenth. To compel all persons to keep the snow, mud, ice and dirt, and trash of all kinds, off the side-walks, and to clean and keep clean the gutters and streets in front of, and the gutters and alleys in rear of, and on the sides of the premises by them occupied or owned.

Seventeenth. To abate and remove nuisances, and to declare what shall be deemed to be nuisances, and to punish, by suitable penalties, the person or persons causing or continuing the same, or suffering the same to remain on his, her, or their premises; or both abate and punish at discretion.

Eighteenth. To regulate the burial of the dead: to purchase and provide common burying grounds and hearses; and to appoint one or more sextons, and prescribe his or their duties; and to provide for the keeping of bills of mortality.

Nineteenth. To regulate gauging: the place and manner of selling and weighing hay; and the place and manner of measuring wood for fuel, and coal, and measuring time, and to appoint suitable persons to superintend and conduct the same.

Twentieth. To make, establish, and regulate public wells and pumps, and to prevent the unnecessary waste of water, and to establish and regulate public pounds.

Twenty-first. To prohibit and prevent the erection of wooden buildings in such parts of said city as they may think proper.

Twenty-second. To erect and establish market-houses, market-places, and houses for common schools; and to regulate and govern, and from time to time to enlarge, repair, remove, and rebuild the same; and to prescribe the rules and regulations for the use and management thereof; and to prescribe the time and manner of vending produce and provisions in such market-houses and market-places; and to prohibit the sale by retail, during market hours, of such articles as they may deem proper, at any other place than the market-houses and market-places so established as aforesaid.

Twenty-third. To prevent forestalling and regrating.

Twenty-fourth. To prevent and guard against damage by fire: to purchase fire-engines and fire-apparatus.

Twenty-fifth. To regulate the general police of said city.

Twenty-sixth. To appoint all officers and agents they may deem proper or necessary to carry into full effect the powers hereby conferred; and to prescribe their duties and powers, and to require any

or either of them to execute bond with securities for the faithful discharge of such duties; and all officers and agents so appointed shall hold their offices during the pleasure of the city council.

Twenty-seventh. To regulate, establish, and provide for the payment of the fees and salaries of all officers and agents by them employed.

Twenty-eighth. To regulate the streets, alleys, and side walks, and all improvements and repairs thereof.

Twenty-ninth. To borrow money for the use of the city of Aurora.

Thirtieth. To regulate all wharves and landings on the shore of the Ohio river, or on the shore of Hogan creek, whether the same be public or private, and the amount of wharfage to be charged at or for the use of the same.

Thirty-first. To levy and collect a revenue for said city in the manner herein before provided.

Thirty-second. To appoint inspectors and measurers of flour, salt, wood, coal, lime, timber, and whiskey, which may be sold in said city.

SEC. 49. Obedience to and observance of all rules, by-laws, ordinances, and police regulations, made in pursuance of this act, shall be enforced by imposing suitable penalties upon the person or persons violating the same.

SEC. 50. Every by-law, ordinance, or police regulation affecting the whole city, relating to the conduct of the citizens generally, and imposing any penalty for a violation of its provisions, shall, after the passage thereof, be published at least once in some public newspaper printed and published in said city; or by posting up copies thereof in three of the most public places in said city, for at least one week; and the affidavit of the printer or publisher of such newspaper, or of the person posting up such copies, to the fact of such publication as aforesaid, taken before any person authorized to administer oaths, and filed with the clerk of said city, shall be sufficient evidence in all courts and places of the publication and promulgation of such ordinance, by-law, or regulation.

SEC. 51. All official bonds (the mayor's excepted) taken under or required by the provisions of this act, or under any ordinance of the city council, shall be made payable to the city of Aurora, and no such bond shall be void for want of form, and all such bonds shall be filed and kept on file in the office of the clerk of said city; and a copy of any such bonds certified by the said clerk to be a correct copy from the original on file in his office, shall be in all respects as good and sufficient evidence as the original bond, and any person injured by the conduct of any officer required to execute bond by the provisions of this act, or by the ordinances of said city, may maintain a suit on the official bond of such officer in the name of said city on his, her, or their relation, and for his, her, or their use.

SEC. 52. All suits brought to recover any penalty incurred under this act, or the ordinances, rules, by-laws, and regulations of

said city, shall be brought in the name of the "city of Aurora," and in all such cases it may be a part of the judgment, if the defendant or defendants shall be found guilty, that he or they stand committed until the judgment and costs are paid or replevied, and the first process which shall be issued in all such cases shall be a *capias* or warrant, and such commitments shall be to the jail of the county of Dearborn, as in other violations of law.

SEC. 53. It shall be the duty of the city council, at as early a period as practicable, to fix and establish the compensation and salaries of the councilmen, marshal, clerk, treasurer, assessor and collector, elected or appointed under the provisions of this act; and increase or diminish such compensation or salary, as from time to time shall be deemed advisable; and to fix and establish the amount of costs to be charged and collected in all cases not otherwise provided for.

SEC. 54. The jurisdiction of said city for all the purposes contemplated, and for the exercise of all the powers conferred by the provisions of this act, shall extend to the centre of the Ohio river opposite the said city.

SEC. 55. The city council shall meet annually, on the second Monday in April, and at such other stated times as by resolution or ordinance they shall appoint; and meetings of the city council may at any time be called by the mayor, or by a majority of the councilmen; and the city council when met may adjourn as well to any other time, as to the regular time for a stated meeting.

SEC. 56. It shall be lawful for the city council, whenever in their opinion the public good may require it, to make improvements in any part of said city, at the expense of said city, and in making any such improvements, and in fixing and establishing the grade of the streets and alleys of the city, the said city council shall have due reference to the effects thereof upon the whole city.

SEC. 57. The said city council shall have full power to lay out and establish streets within the limits of said city, whenever the public good shall require it, and determine the width thereof; and in case the said city council should establish a street or streets within the limits of said city, where heretofore there has been no public highway, and the owners of the ground through which such street may be located, shall remonstrate against the location of such street through his, her, or their premises, the said city council shall appoint three disinterested freeholders, resident in the said township of centre, in said county, to assess the damages which will be sustained by the persons so remonstrating by the location of such street through his, her, or their premises, and such damages shall be paid if the city council shall deem the location of such street of sufficient public interest, out of the treasury of said city; and such street shall not be opened until such damages, if any are assessed, are paid: *Provided*, That such remonstrance shall be filed with [the] clerk of said city, within thirty days from the time the said city council shall have caused such street to be surveyed and located,

and the said city council shall, before causing any such street to [be] surveyed and located, give notice of their intention to do so, by causing a notice of such intention to be published for at least thirty days prior to such survey and location in the same manner that the public ordinances of said city, are by this act required to be published; and upon any such street being opened by order of said city council, the said city council shall cause a record of the survey of such street to be entered on the records of said city.

SEC. 58. The first election of the officers of said city, shall be held on the first Monday in April in the year 1848; and it shall be the duty of the president and trustees of the town of Aurora, at a convenient period prior to the said first day of April 1848, to appoint the several inspectors of such election, required to be appointed by the 24th section of this act, appointing one inspector for each of the said wards of said city, and shall also designate a place in each ward for holding the election, and the inspectors so appointed shall proceed in the discharge of the duties of their appointment in all respects, as if appointed by said city council as hereinbefore provided; and the president of the trustees of the town of Aurora shall, at least ten days prior to the said first day of April 1848, make, and caused to be published, the proclamation required by the 25th section of this act to be made and published.

SEC. 59. All taxes assessed and levies made by the president and trustees of the town of Aurora, by virtue of an act incorporating the town of Aurora, entitled "An act to incorporate the town of Aurora," shall be collected in the same manner as if the said act of incorporation were still in full force and this act had not been enacted; and all suits pending, and all causes of actions of every nature whatever existing in favor of or against the said town of Aurora, or in favor of or against the president and trustees of the town of Aurora, shall be prosecuted and carried into effect as though the said act entitled "An act to incorporate the town of Aurora," were still in full force and effect; and suits upon all bonds, contracts, and agreements at any time entered into prior to the going into effect of this act, to which the said town of Aurora, or the president and trustees of the town of Aurora, may be a party or parties, shall be instituted, prosecuted, and carried into effect as though the said act entitled "An act to incorporate the town of Aurora," were still in full force and this act had never been enacted.

SEC. 60. All public property, both real and personal, which may belong to the said town of Aurora, or to the said president and trustees of the town of Aurora, at the time this act shall take effect, is hereby transferred to and vested in the said city of Aurora; and all actions and causes of actions, rights, and credits of every nature and description, in favor or in anywise pertaining to the said president and trustees of the town of Aurora, shall enure to the benefit the said city of Aurora.

SEC. 61. Whenever a majority of the freeholders residing within the limits of that part of said city known as the original plat of Aurora, shall, by petition to the city council, pray for the vacation of any alley, or section of an alley, lying within the limits of said original plat, it shall be the duty of the city council to vacate such alley, or section of an alley, and to cause an order declaring the vacation of such alley, or section of alley, to be entered on the records of said city; and upon the like petition of a majority of the freeholders residing within the limits of any addition to said original plat praying for the vacation of any alley lying within the limits of said addition, it shall be the duty of said city council to vacate the same, and cause a like order of the vacation thereof to be entered on the records of said city.

SEC. 62. This act shall be in force and take effect from and after the first day in April, in the year one thousand eight hundred and forty-eight inclusive, except the 24th and 25th sections thereof, which shall take effect and be in force from and after its passage.

CHAPTER LXX.

An Act to authorize the county commissioners of Warren county to establish an additional place of holding elections in Medina township of said county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board doing county business in the county of Warren are hereby invested, and it is hereby made their duty, on the presentation of a petition signed by twenty voters residing in said township, to establish one additional place of holding elections in Medina township, in said county.

SEC. 2. After said board shall have established such additional place of holding elections in said township, the qualified voters thereof shall annually elect one inspector of elections for said township, for such additional place of holding elections, at the times and in the manner prescribed by the several general election laws in this state, and polls shall be opened at such additional place, and be held in the same manner that general and township elections are held and conducted at other places of elections authorized by law.

SEC. 3. This act to be in force from and after its passage, and a duly certified copy shall have been filed with the auditor of said county, and it is hereby made the duty of the secretary of state to furnish said copy.

CHAPTER LXXI.

An Act to repeal an act entitled "An act to improve the navigation of Lost river," so far as relates to Martin county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled "An act to improve the navigation of Lost river," approved January 13, 1845, be, and the same is hereby, repealed, so far as relates to Martin county, and that the hands and labor is hereby transferred from said river to the New Albany and Vincennes turnpike road; and it shall be the duty of the superintendent of said road, and he is hereby empowered, to call out all the hands subject to work on roads and highways, residing within one mile and a half of said road along the same from the county line dividing Orange and Martin counties to Mt. Pleasant, in Martin county.

SEC. 2. That where any hands shall have worked upon said road under the direction of the proper supervisors, then and in that case they shall not be liable to work upon the same under the superintendent of said road.

SEC. 3. This act to be in force from and after its passage; and it is hereby made the duty of the secretary of state to forward forthwith to the clerk of Martin county a copy of this act.

CHAPTER LXXII.

An Act increasing the power of the county board of the county of Blackford.

[APPROVED, FEBRUARY 16, 1848.]

WHEREAS, several petitions and remonstrances have been presented to this Legislature by many citizens of Blackford county on the subject of the road tax of said county; AND WHEREAS, this Legislature have no criterion by which the justice or injustice of these applications may be decided; AND WHEREAS, it is believed that the county board of said county is the proper tribunal to settle such difficulties; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter it shall be lawful for the board doing county business in Blackford county to appropriate any amount of road

taxes, not exceeding two miles in width, to the improvement of any state or county road in said county aforesaid; *Provided, however,* said board aforesaid shall in no instance change the present application of said taxes, unless a majority of the citizens interested shall first petition said board in behalf of the same.

SEC. 2. All laws and parts of laws contravening the provisions of this act are hereby repealed, so far as the county of Blackford is concerned.

SEC. 3. The secretary of state is hereby required to forward a copy of this act to the clerk of said county on or before the first Monday of May, 1848.

SEC. 4. This act shall take effect and be in force from the filing of said copy aforesaid in the clerk's office of said county.

CHAPTER LXXIII.

An Act to incorporate the Botanico Medical society of Decatur county.

[APPROVED FEBRUARY 14, 1847.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Newbury Wheeldon, T. S. Wright, Milton G. Falconbury, John Wheeldon, Joseph Dillman, and their associates, together with such as may hereafter be associated with them, be and they are hereby created a body corporate and politic, with succession for thirty years, by the name of the "Botanico Medical Society of Decatur county," and by that name may sue and be sued, plead and be impleaded, in all courts of law and equity; may have a common seal and alter the same at pleasure; shall be capable of acquiring and holding real or personal property, and may sell, dispose of, and convey the same: *Provided,* The value thereof shall not exceed fifty thousand dollars, and the same shall be devoted exclusively to the promotion of the science of medicine and its collateral branches.

SEC. 2. Said corporation shall have full power to form and ratify a constitution and by-laws for its government, for the regulation of its fiscal concerns, and admission of members, and appointment of its officers, together with such powers as are necessary and proper for the direction and management of its concerns.

SEC. 3. Any future legislature may alter or amend this act; *Provided,* Such alteration shall not in any way affect the title of any property acquired or conveyed under its provisions.

SEC. 4. That any time after the passage of this act, said society, by giving ten days notice of the time and place, may proceed to

organize by electing officers, or directors, as the case may be, for the management of said society: Said officers to hold their office according to time specified in the by-laws.

SEC. 5. This act to be in force from and after its passage.

CHAPTER LXXIV.

An Act to abolish the office of school commissioner in the county of Floyd, and for other purposes.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the office of school commissioner in the county of Floyd be and the same is hereby abolished, and the duties of said office shall hereafter be performed by the county treasurer of said county who shall be governed in all respects by the same laws and subject to the same penalties now in force in relation to said office of school commissioner.

SEC. 2. Before entering upon the discharge of the duties of school commissioner, the treasurer shall execute a bond the same as heretofore required to be given by the school commissioner of said county.

SEC. 3. The treasurer and auditor for their services, in the management of the various school funds in their hands, shall be allowed the one-half of one per cent. each upon all sums upon which the interest shall have been paid during the current year, to be paid out of said interest.

SEC. 4. All acts or parts of acts contravening the provisions of this act be and the same are hereby repealed.

SEC. 5. This act to take effect and be in force from and after the first Monday in March, 1848; and it is hereby made the duty of the secretary of state to forward a copy of this act to the county auditor's office without delay.

CHAPTER LXXV.

An Act to change a certain State Road in the County of St. Joseph.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Abraham Storer, John Smith, and Esqr. Picket, all of the county of St. Joseph, and State of Indiana, be and they are hereby appointed commissioners to view, mark and change the state road leading from Musgreeback, in the county of Kosciusko, to South Bend in St. Joseph county, as follows, to wit: commencing at the south-west corner of section nine in township thirty-five, north of range three east, running thence south on the section line, or as near thereto as the ground will permit, between sections sixteen, seventeen, twenty and twenty-one, to a point directly west of the marsh bridge, situate on section twenty-one in the township aforesaid, thence due east until it intersects the marsh bridge aforesaid.

SEC. 2. The said commissioners or any two of them, shall meet on the first Monday in May next, or so soon thereafter as they may agree upon, at the place of beginning, and after having taken an oath or affirmation faithfully and impartially to discharge the duties assigned them, shall proceed to view and locate said road agreeable to the routes and courses designated in the first section of this act.

SEC. 3. The said commissioners shall, within thirty days next after locating said road as aforesaid, report to the county auditor of the county of St. Joseph their proceedings in the premises, which report shall be in writing, and be by said auditor laid before the next board of county commissioners at their next session thereafter, which said board shall cause said report to be spread upon the record in the order book of the court, and order said road to be opened and repaired as in roads and highways, and make such allowances to the said commissioners as to them shall seem proper and right.

SEC. 4. This act to take effect and be in force from and after its passage, and it is hereby made the duty of the secretary of state to cause a certified copy of this act to be filed in the auditor's office of the county of St. Joseph.

CHAPTER LXXVI.

An Act to authorize the Commissioners of Daviess County to employ a Physician, and for other purposes.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board of commissioners of Daviess county be and they are hereby authorized to retain and employ by the year a competent physician to attend and render medical services to the paupers of said county, for which such physician shall receive such yearly compensation as the said board and such physician shall agree upon.

SEC. 2. *Be it further enacted*, That the said board of commissioners are hereby authorized and empowered to hold their several sessions such length of time as the business before such board may require.

SEC. 3. This act to be in force from and after its passage, and it is hereby made the duty of the secretary of state to forward forthwith to the auditor of said county a copy of this act.

CHAPTER LXXVII.

An Act giving additional powers to the President and Trustees of the town of Lafayette in Tippecanoe County.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for the president and trustees of said town of Lafayette, to establish and regulate the lines on which buildings in said town may and shall be erected, and such lines when established and made known by publication of any ordinance, shall be conformed to by any person erecting any building in said town, and should any person attempt to build over or not conform to such line, said president and trustees may, upon bill filed in any court of competent jurisdiction, enjoin and restrain the erection of any such building without giving any bond as a condition to the issuing of such injunction: *Provided, however*, That the president and trustees of said town, in their corporate capacity, shall be liable for all damages occasioned by the wrongful issuing of such injunction.

SEC. 2. The president and trustees of said town shall have, and hereby are invested with full power to establish and construct sidewalks in said town, and also to pave, construct, and make the streets of said town at the cost of such persons and lots as they may deem most particularly benefitted thereby, and under the general provisions of law already in force.

SEC. 3. Hogs and swine of any kind shall not be permitted to run at large in said town, except under such rules and ordinances as may be from time to time passed and made by said president and trustees; and any such hog or swine so found at large contrary to any such ordinance, shall become and hereby is declared to be forfeited to said president and trustees, and shall be seized and sold by the marshal of said town in such manner and under such provisions as may be prescribed by ordinance of said president and trustees, and the money arising from any such sale [shall] be paid into the treasury of said town of Lafayette for the use of said town.

SEC. 4. Whenever a vacancy shall happen from any cause, in the office of trustee of said town, the same may be supplied until the next regular election by appointment made by the remaining trustees, which certificate of appointment shall be authenticated by the signatures of the said remaining trustees, under the corporate seal, and the person thus appointed shall, upon taking the oath of office and filing his certificate of appointment or oath as now required by law, be fully empowered and qualified to act as such trustee until the next regular election.

SEC. 5. Whenever the said president and trustees, or any person acting by or under their authority, shall be sued in any court of law, they or he may under the general issue give in evidence any matter of defence or justification, the same as if such matter had been specially pleaded, and this section shall be deemed to apply to such suits as are already brought, as well as to those that may hereafter be brought, but nothing herein contained shall be taken or construed so as to prevent said president and trustees, or any person acting by or under their authority, from pleading specially if it shall be deemed advisable.

SEC. 6. Whenever the said president and trustees may wish to take an appeal or prosecute a suit of error in any cause to which they may be a party, they may do so without filing or giving any bond therefor, and any appeal having been granted or supersedeas ordered, shall operate as a full stay of proceedings in the case, the same as if a bond had been given.

SEC. 7. The organization of said president and trustees as it now exists, is declared to be regular and valid in every respect.

SEC. 8. This act, and all acts heretofore passed relating to said town of Lafayette or the president and trustees thereof, and that part of the Revised Statutes of 1843 relating to the incorporation of towns, are hereby declared to be public acts.

SEC. 9. The secretary of state shall forthwith make out and transmit a certified copy of this act to the clerk of the county of

Tippecanoe, to be filed in his office, and the same shall be in force from and after the same is so filed in the clerk's office of the said county of Tippecanoe.

SEC. 10. This act shall be in force from and after its passage.

CHAPTER LXXVII.

An Act to change the name of Ellen Narcissa Brown to that of Ellen Maria Graham, and for other purposes.

[APPROVED FEBRUARY 3, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the name of Ellen Narcissa Brown, of the county of Pike, be and it is hereby changed to that of Ellen Maria Graham.

SEC. 2. The said Ellen Maria shall be, and she is hereby invested with all the rights with which she would be invested if she were the child of James C. Graham, of said county of Pike, and shall, upon the decease of the said James C. Graham, be an heir and distributee of his estate, real and personal, to all intents and purposes, as fully as if she were his daughter.

SEC. 3. This act shall be in force from and after its passage.

CHAPTER LXXVII.

An act in relation to the taking of the list of children in the county of Perry for school purposes.

[APPROVED FEBRUARY 10, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter it shall be the duty of the assessor of the state and county revenue in and for the county of Perry, in addition to the duties that are now or may hereafter be required of him, to make out a correct list of all the children between the ages of five years and twenty-one years in each congressional township, and fractional part thereof, in said county, separately, which list he

shall, on or before the first Monday in June in each year, deliver to the county auditor of said county.

SEC. 2. The interest arising from the surplus revenue fund in and for the said county of Perry, to be divided by the county auditor among the congressional townships and fractional parts thereof, of said county, on the first Monday in March, is hereby suspended until the first Monday in September, in the year of our Lord one thousand eight hundred and forty-eight, after which time it shall be divided as directed in chapter 15, section 77, of the Revised Statutes of 1843.

SEC. 3. All laws and parts of laws coming within the purview of this act, are hereby repealed, so far as the county of Perry is concerned.

SEC. 4. This act to take effect and be in force from and after its passage, and to remain in force for one year.

CHAPTER LXXXI.

An act to amend an act regulating the mode of doing township business in the county of Elkhart.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled "an act to regulate the mode of doing township business in the county of Elkhart," approved January 13, 1845, be and the same is hereby so amended that the township trustees shall have power to make any navigable stream a boundary for road districts, where such stream is the boundary of tracts of land, according to the original United States survey.

SEC. 2. This act to take effect and be in force from and after its publication in the Indiana State Sentinel.

CHAPTER LXXXII.

An Act authorizing the location of a state road in Posey county.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John L. Benner, John Johnson and Isaac M. Wade, are hereby appointed commissioners to view, mark, and locate a state road, commencing at West Franklin, in Posey county, and running to New Harmony, in said county, *via* the farm of Felix Mills and Springfield.

SEC. 2. The said commissioners or a majority of them shall meet at West Franklin on the second Monday of August next, or subsequent to that time, if they wish, and, if they deem it necessary, shall have power to employ a surveyor, chain carrier, &c., and after taking an oath faithfully to discharge their duties as such commissioners, shall proceed to view, mark, and locate said road; *Provided, however*, That the said commissioners shall not locate said road so as to interfere with the farms along which said road would be located. And said commissioners shall be governed in all things by the laws now in force on the subject of laying out roads and highways.

SEC. 3. This act to take effect and be in force from and after its passage.

CHAPTER LXXXIII.

An Act for the better securing of titles in Spencer and Dubois counties.

[APPROVED FEBRUARY 14, 1848.]

WHEREAS, Owing to the destruction of the clerks' office in said counties by fire, many of the citizens of said counties who hold lands under sale, made by virtue of executions from the circuit courts of said counties, as well as under sales made for the non-payment of taxes; AND WHEREAS, Owing to the destruction of said clerks' offices, all evidence of the proceedings prior to such sales are lost and destroyed; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases in said counties of Spencer and Dubois where lands in said counties have been sold by the sheriff or coro-

ner by virtue of any execution, judgment, order, or decree of the circuit court of said counties or either of them made or rendered prior to the burning [of] said offices or either of them of the county in which such sale has been made, the sheriffs' or coroners' deed shall be *prima facie* evidence of the regularity of all necessary proceedings prior to the sale.

SEC. 2. *Be it further enacted*, That the collectors' deeds for lands sold for non-payment of taxes in said counties prior to the burning of said offices, shall be *prima facie* evidence of the regularity of the proceedings prior to the sale.

This act to take effect and be in force from and after its passage.

CHAPTER LXXXII.

An Act regulating the salary of the auditor of Putnam county.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board of commissioners of the county of Putnam shall annually allow the auditor of said county any sum not exceeding four hundred dollars, and no more, which shall be in full for his services as such auditor, who shall perform all the duties of said office as required by law.

SEC. 2. All laws and parts of laws now in force allowing the auditor twelve and a half cents for the transfer of deeds, be, and the same are hereby repealed, so far as the county of Putnam is concerned.

SEC. 3. All laws or parts of laws coming within the purview of this act are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

CHAPTER LXXXIII.

An Act to incorporate the Taylor Cotton Mills.

[APPROVED FEBRUARY 15, 1848.]

Be it enacted by the General Assembly of the State of Indiana, That Zachary Taylor, Joseph P. Taylor, William Taylor, David Hunt, Ira Smith, John S. Allison, Angereau Gray, Edward D. Hobbs, and John McLean, junior, their associates, successors, and assigns, be, and they are hereby, made a corporation, by the name of the Taylor Cotton Mills, for the purpose of manufacturing cotton, linen, and woollen goods, at the town of Cannelton, in the county of Perry, Indiana, and for this purpose shall have all the powers and privileges, and be subject to all the duties and requisitions contained in the statute of 1843, chapter 32, article 2, respecting corporations.

Be it further enacted, That the capital stock of said corporation shall not exceed five hundred thousand dollars, and that the said corporation may be lawfully seized and possessed of such real estate as may be necessary and convenient for the purposes aforesaid, not exceeding the value of fifty thousand dollars, exclusive of buildings and improvements that may be made thereon by the corporation.

This act shall take effect and be in force as a public act for the term of fifty years from and after its passage, unless the said corporation shall be sooner voluntarily dissolved by the stockholders, of which due public notice shall be given.

CHAPTER LXXXIV.

An Act relative to the charter of the city of Indianapolis.

[APPROVED FEBRUARY 9, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled "An act to incorporate the city of Indianapolis," approved on the 26th of January, 1847, is hereby declared to have taken effect, and to have been and to be in full force as a law of the State of Indiana, for all purposes whatever, from and after the 30th of March, 1847, the date of the governor's proclamation declaring said act to be in force as a law of the state, in pursuance of the requirements of said act.

SEC. 2. This act to be in full force from and after its passage.

CHAPTER LXXXV.

An Act to incorporate the Perry Cotton Mill.

[APPROVED FEBRUARY 15, 1848.]

Be it enacted by the General Assembly of the State of Indiana, That Virgil McKnight, Thomas Anderson, Isaac Everett, James Brown, and John L. Martin, their associates, successors, and assigns be, and they are hereby, made a corporation, by the name of the Perry Cotton Mill, for the purpose of manufacturing cotton and other goods at the town of Cannelton, in the county of Perry, Indiana, and for this purpose shall have all the powers and privileges, and be subject to all the duties and requisitions contained in the statute of 1843, chapter 32, article second, respecting corporations.

Be it further enacted, That the capital stock of said corporation shall not exceed five hundred thousand dollars, and that the said corporation may be lawfully seized and possessed of such real estate as may be necessary and convenient for the purposes aforesaid, not exceeding the value of fifty thousand dollars, exclusive of buildings and improvements that may be made by the corporation.

This act shall take effect and be in force as a public act during the term of fifty years from and after its passage, unless said corporation shall sooner be voluntarily dissolved by the stockholders, of which due public notice shall be given.

CHAPTER LXXXVI.

An Act to incorporate the Cannelton Glass Manufacturing Company.

[APPROVED FEBRUARY 15, 1848.]

Be it enacted by the General Assembly of the State of Indiana, That S. W. Allen, Frederick Boyd, and George A. Lewis, their associates, successors, and assigns be, and they are hereby, made a corporation, by the name of the Cannelton Glass Manufacturing Company, for the purpose of manufacturing glass and glassware at the town of Cannelton, in the county of Perry, Indiana, and for this purpose shall have all the powers and privileges, and be subject to all the duties and regulations contained in the statute of 1843, chapter 32, article second, respecting corporations.

Be it further enacted, That the capital stock of said corporation shall not exceed one hundred thousand dollars, and that the said cor-

poration may be lawfully seized and possessed of such real estate as may be necessary and convenient for the purposes aforesaid, not exceeding the value of twenty thousand dollars exclusive of buildings and improvements that may be made by the corporation.

This act shall take effect and be in force as a public act during the term of fifty years from and after its passage, unless said corporation shall be sooner voluntarily dissolved by the stockholders, of which due public notice shall be given.

CHAPTER LXXXIX.

An Act to incorporate the Cannelton Paper Mill.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That* John P. Morton, Henry A. Griswold, George W. Weissinger, and Thompson Hanna, their associates, successors, and assigns be, and they are hereby made a corporation by the name of the Cannelton Paper Mill, for the purpose of manufacturing paper at the town of Cannelton, Indiana; and for this purpose shall have all the power and privileges, and be subject to all the duties and requisitions contained in the "general provisions respecting corporations," in the statute of 1843, chapter 32, article 2.

[SEC. 2.] *Be it further enacted,* That the capital stock of said corporation shall not exceed one hundred thousand dollars, and that the said corporation may be seized and possessed of such real estate as may be necessary and convenient for their purposes not exceeding the value of twenty thousand dollars, exclusive of improvements that may be made thereon by the corporation.

[SEC. 3.] This act shall take effect and be in force as a public act, during the term of fifty years from and after its passage, unless said corporation shall be sooner voluntarily dissolved by the stockholders of which due public notice shall be given.

CHAPTER XC.

An Act to incorporate the Ward Cotton Mill.

[APPROVED FEBRUARY 15, 1848.]

Be it enacted by the General Assembly of the State of Indiana, That Robert J. Ward, George Ward, Henry Johnson, and George Jonas, their associates, successors, and assigns be, and they are hereby made a corporation by the name of the Ward Cotton Mill, for the purpose of manufacturing cotton at the town of Cannelton, Indiana, and for this purpose shall have all the power and privileges and be subject to all the duties and requisitions contained in the statute of 1843, chapter 32, article 2, respecting corporations.

Be it further enacted, That the capital stock of said corporation, shall not exceed five hundred thousand dollars, and the said corporation may be seized and possessed of such real estate as may be necessary and convenient for the purposes aforesaid, not exceeding the value of fifty thousand dollars exclusive of buildings, and improvements that may be made thereon by the corporation.

This act shall take effect and be in force as a public act during the term of fifty years from and after its passage, unless the said corporation shall be sooner voluntarily dissolved by the stockholders, of which due public notice shall be given.

CHAPTER XCI.

An Act to incorporate the Indiana Cotton Mills.

[APPROVED FEBRUARY 15, 1848.]

Be it enacted by the General Assembly of the State of Indiana, That George W. Meriwether, John Hulm, Charles A. Lewis, William F. Pettett, and Thomas N. Lindsey, their associates, successors, and assigns be, and they are hereby made a corporation by the name of the Indiana Cotton Mills, for the purpose of manufacturing cotton and other goods at the town of Cannelton, in the county of Perry, Indiana, and for this purpose shall have all the powers and privileges, and be subject to all the duties and requisitions contained in the statute of 1843, chapter 32, article second, respecting corporations.

Be it further enacted, That the capital stock of said corporation shall not exceed five hundred thousand dollars, and that the said corporation may be lawfully seized and possessed of such real es-

tate as may be necessary and convenient for the purposes aforesaid, not exceeding the value of fifty thousand dollars, exclusive of buildings and improvements that may be made by the corporation.

This act shall take effect and be in force as a public act during the term of fifty years from and after its passage, unless said corporation shall sooner be voluntarily dissolved by the stockholders, of which due public notice shall be given.

CHAPTER XCII.

An Act to incorporate the Cannelton Cotton Mill.

[APPROVED FEBRUARY 15, 1848.]

Be it enacted by the General Assembly of the State of Indiana, That C. T. James, E. M. Huntington, Hamilton Smith, S. P. Chase, James Boyd, Jacob Beckwith, Thomas M. Smith, James Low, Randal Crawford, Peasley Chamberlain, and John N. Breden, their associates, successors, and assigns be, and they are hereby made a corporation by the name of the Cannelton Cotton Mill, for the purpose of manufacturing cotton and other goods at the town of Cannelton, in the county of Perry, Indiana, and for this purpose shall have all the powers and privileges, and be subject to all the duties and requisitions contained in the statute of 1843, chapter 32, article second, respecting corporations.

Be it further enacted, That the capital stock of said corporation shall not exceed five hundred thousand dollars, and that the said corporation may be lawfully seized and possessed of such real estate as may be necessary and convenient for the purposes aforesaid, not exceeding the value of fifty thousand dollars, exclusive of buildings and improvements that may be made by the corporation.

This act shall take effect and be in force as a public act during the term of fifty years from and after its passage, unless said corporation shall sooner be voluntarily dissolved by the stockholders, of which due public notice shall be given.

CHAPTER XCIII.

An Act to incorporate the Cannelton Foundry.

[APPROVED FEBRUARY 15, 1848.]

Be it enacted by the General Assembly of the State of Indiana, That David Beatty, Jacob Beckwith, and Robert Beatty, their associates, successors, and assigns be, and they are hereby made a corporation by the name of the Cannelton Foundry, for the purpose of manufacturing castings of iron, brass, &c., at the town of Cannelton, Indiana, and for this purpose shall have all the powers and privileges, and be subject to all the duties and requisitions contained in the statute of 1843, chapter 32, article 2, respecting corporations.

Be it further enacted, That the capital stock of said corporation shall not exceed one hundred thousand dollars, and that the said corporation may be lawfully seized and possessed of such real estate as may be necessary and convenient for their purposes, not exceeding the value of twenty thousand dollars, exclusive of buildings and improvements that may be made thereon by the corporation.

This act shall take effect and be in force as a public act during the term of fifty years from and after its passage, unless said company shall sooner voluntarily dissolve said corporation, of which due public notice thereof shall be given.

CHAPTER XCIV.

An Act to incorporate the Indianapolis and Bellefontaine Railroad company.

[APPROVED FEBRUARY 17, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That* Allen Makepeace, George W. Godwin, William Sparks, John H. Cook, and Jonathan Wynn of Madison county, Thomas J. Sample, John C. Helm, William Saxon, Samuel P. Anthony, and James Truit of Delaware county, William M. Way, David Heiston, Silas Colegrove, David J. Cotton, and Gideon B. Wallace of Randolph county, be, and they are hereby appointed commissioners to open books at suitable places in the State of Indiana, and elsewhere, for subscriptions to the capital stock of a company to be called the "Indianapolis and Bellefontaine Railroad Company," at any time within four years from the passage of this act: *Pro-*

vided, Said commissioners, or a majority of them shall give three weeks' notice of the time and place of opening said books by publication in one or more newspapers published nearest the contemplated line of said road.

SEC. 2. Said commissioners shall determine at what point or points books shall be opened, and the length of time they shall be continued open at each point for the subscription of stock to said company.

SEC. 3. The stock of said company to be so subscribed may consist of lands, money, labor, or materials for the construction of said railroad, and whenever twenty thousand dollars shall have been subscribed as stock in said company, (in addition [to] any real estate subscribed,) and the sum of five thousand dollars thereof shall have been paid to said commissioners, it shall be their duty to order an election for directors of said company to be held at some convenient place at such time as they shall designate, giving at least twenty days notice thereof in one or more newspapers published nearest the line of said contemplated work.

SEC. 4. Said commissioners, or a majority of them, shall attend said election and preside over the same, and shall also determine what number of votes each stockholder shall be entitled to give at said election, and shall open a poll and receive the votes between the hours of 10 o'clock A. M. and 4 o'clock P. M. of said day, and after the voting shall have closed, shall immediately open and count the ballots, and shall disclose the number of votes cast, the number received by each individual voted for, and who have been duly elected directors.

SEC. 5. The directors of said company shall be fifteen in number, eight of whom shall at all times constitute a board for the transaction of business, in the absence of others, and the acts of a majority of said board when assembled shall be binding upon said company. All vacancies occurring in said board shall be filled by a majority of said directors, and the person by said board appointed shall serve until a new board shall have been chosen and qualified: *Provided, however*, That no person shall be eligible to hold the office of director who is not a stockholder in said company, and every director thus chosen shall serve as such until his successor is chosen and qualified.

SEC. 6. At all elections after the first, each stockholder shall be entitled to such number of votes as the company by their by-laws may determine: *Provided*, No stockholder shall be entitled to more than fifty votes, and said votes shall be cast in person or by proxy appointed in writing and signed by such stockholder; and no stockholder shall be entitled to vote after the first election, unless the stock by which he claims to vote shall have been held by him at least six months prior to such election, and no president, director, or other officer of said company shall vote at any election of directors as agent, attorney, or proxy of any stockholder.

SEC. 7. The board of directors first chosen according to the pro-

visions of this act shall meet at such time and place as a majority of the commissioners aforesaid may designate, whose duty it shall be to give said directors notice thereof within thirty days after such election, at which meeting it shall be the duty of said directors to appoint one of their number as president of said board, and they shall also appoint a secretary and treasurer of said company, whose duties, terms of service, and compensation shall from time to time be regulated by said board.

SEC. 8. Said board of directors shall at their first, or some subsequent meeting at an early day, fix the time for the next annual election of directors, not more than one year from the time of such meeting, and all subsequent elections for directors shall be held annually thereafter, and shall be conducted in such manner as the board may prescribe.

SEC. 9. One month's notice for the election of directors at each annual election shall be given by publication in one or more newspapers published nearest to the place of holding said election.

SEC. 10. Each board of directors shall continue in office for the term of one year, and until a new board is chosen and qualified; and in case any annual election shall not be held for directors on the proper day for holding the same, it shall be held at some early day thereafter to be fixed and appointed by the directors then in office, giving the same notice thereof as required to be given for elections regularly held.

SEC. 11. The aforesaid commissioners, as soon as the first board of directors of said company shall have been organized, or within ten days thereafter, shall deliver over to said board the subscription books of stock, and shall pay over to the order of said board all moneys or property received by them on such subscription, and in case any one or more of said commissioners shall fail, neglect, or refuse to do so, or shall have wilfully used any of said money, or destroyed, or concealed any of said books with intent to defraud said company, or any stockholder or stockholders thereof, such commissioner or commissioners so offending shall, upon conviction thereof, by presentment or indictment, be fined in any sum not exceeding ten thousand dollars, and be imprisoned at hard labor in the state prison for any term of time not exceeding ten nor less than one year.

SEC. 12. The board of directors of said company shall have power to supply vacancies in the office of president, secretary, and treasurer of said company; to meet from time to time as often as may be thought expedient; to adjourn from time to time as they may think necessary; to adopt and establish such rules and regulations, and make such by-laws, as in their judgment the business of the company may require, and are necessary for the better organization of the company, and to enable them to do and perform their duties, and to carry out the designs of the powers granted by this act; and the by-laws of said company to alter and amend at pleasure, as by said board may be found necessary; to appoint all subordinate officers,

engineers, artists, agents, and workmen that may be necessary to carry out the objects of said company; to demand at such time and in such proportion as they shall see fit, the sums of money due by stockholders on their respective money subscriptions of stock under pain of forfeiture to the company of the shares of their stock and all previous payments thereon, or of such other penalty as may be prescribed by the by-laws of said company, or to sue therefor and recover the amount due in an action of debt or assumpsit in any court of competent jurisdiction; to issue proper certificates of stock to the stockholders and to determine in what manner and under what restriction the shares of stock shall be transferable; to fix the compensation and prescribe the duties of the several officers and agents in the employ of the company; to require such bonds, obligations and securities from the treasurer, secretary, and other officers of the company as may be deemed necessary; to open and continue open, as long as necessary, books for the subscription of stock in said company; to acquire, purchase, sell, lease, and dispose of real estate for the use of the company, for the purposes and in the manner hereinafter described; to decide upon all locations of the road hereinafter mentioned; and establish and construct depots, toll houses, offices, warehouses, machine shops, and all necessary structures, fixtures, machinery, and apparatus; to order and cause to be made all estimates, surveys, and lettings of work at such times and places as they may determine; to prescribe such form of contract, rules, regulations and specifications for the performance of work as they may judge proper; to enter upon and take possession of any land which may be necessary for the construction of said road, and to make the same available; to regulate the time and manner in which all cars and railroad vehicles, travel, and property shall pass on said road; to make and construct and to keep in constant repair said road; to establish and collect the amount of tolls, and transmit duties for the travel or transportation of any property on said road; to make and declare dividends of profits and income of said road, and its appurtenances among the stockholders at such times as they may deem expedient, and do all other necessary and proper acts in accordance with the provisions of this act, according to its true intent and meaning.

SEC. 13. The said directors when elected, and their successors in office are hereby constituted a body corporate and politic, by the name and style of "the President and Directors of the Indianapolis and Bellefontaine Railroad Company," and by such name may sue and be sued, plead and be impleaded, answer and be answered unto, either in law or equity, in any court of competent jurisdiction within this state, and may make or adopt a common seal, and the same may alter at pleasure.

SEC. 14. The capital stock of said company shall be one million of dollars, which may be increased at the pleasure of said company from time to time as the interest of said company may require in the prosecution of the work or in making necessary repairs thereto.

SEC. 15. The company shall have power to call for such portions of the stock subscribed not exceeding five dollars on each share in any one year, (unless it shall become absolutely necessary to collect a greater amount, to enable said company to procure materials or laborers for the prosecution of the work,) the same to be paid at such time and place as the board may designate, of which said board shall give at least sixty days' notice in some newspaper published at or nearest the place where the same shall be made payable, or by written notice given to the stockholders, in which shall be specified the amount demanded on each share, and the time and place of payment. If any stockholder shall neglect or refuse to pay any such requisition within ten days after the time named for such payment, the company may bring suit against him or them for the amount due and called for, in any court of competent jurisdiction, and recover the amount due, with ten per centum damages for such detention; and if the amount cannot be made on execution, or if the delinquent is out of the state so that suit cannot be brought against him, or his goods, or chattels, lands or tenements cannot be reached, then said company may by order in their books, declare such stock forfeited to the company, with whatsoever amount may have been paid thereon, and no such delinquent before the forfeiture of such stock shall be permitted to vote for directors, or receive any dividend on his, her, or their stock, until he is restored to said rights by order of the board.

SEC. 16. As soon as the sum of thirty thousand dollars is subscribed in stock, and the sum of ten thousand dollars actually paid in, said company, by its agents, shall have full power, from time to time, to examine, survey, locate and construct a rail road, of a single or double track, as they may deem most expedient, commencing at Indianapolis, at or near the termination of the Madison and Indianapolis rail road, so as to intersect the same, upon such terms as may be agreed upon, and running from thence upon the best ground for the interest of said company to the town of Pendleton, thence to Andersontown, in Madison county, thence to Muncie, in Delaware county, thence to the town of Winchester, in Randolph county; from thence, in an easterly direction, to the line dividing the States of Indiana and Ohio, for the purpose of connecting with a rail road proposed to be constructed from Bellefontaine, in Ohio, to [the] state line. The construction of said road shall commence at Indianapolis, and shall be completed in continuous sections from the point of commencement. The legislature reserves the power to repeal so much of this section as provides that "the construction of said road shall commence at Indianapolis, and shall be completed in continuous sections from the point of commencement," if the interest of the company require the repeal.

SEC. 17. For the purpose of making such examination, survey, and location, it shall be lawful for said company, by their agents or persons in their employ, to enter upon any land to make surveys and estimates, or search for stone, gravel, wood or other materials necessary for the construction of said road.

SEC. 18. It shall be lawful for said company, either before or after the location of any section of said road, to obtain from the person or persons through whose land the same may pass, a relinquishment of so much of the land as may be necessary for the construction or location of said road, as also the stone, gravel, and other materials, and also to receive, by donations, gifts, grants, bequests, land, money, labor, property, stone, gravel, timber, or other materials, for the benefit of said company; and all such contracts, relinquishments, donations, gifts, grants, and bequests made and entered into in writing, by any person or persons capable of contracting, made in consideration of such location or construction of said road for the benefit of the company, shall be binding and obligatory; and said company may have their action at law or in chancery, in any court of competent jurisdiction, to compel the performance of the same.

SEC. 19. In all cases, when any person through whose land the road may run, shall refuse to relinquish the same, or when a contract cannot be made for such relinquishment, or for stone, gravel, timber, or other materials, necessary for the construction of said road, it shall be lawful for said company to give notice to some disinterested justice of the peace of the county where the difficulty may occur, that such facts do exist. Whereupon, said justice of the peace shall cause the owner of said land or materials to be summoned to appear before him on some particular day in said summons named, or within ten days thereafter; and shall also cause to be summoned twelve disinterested persons of the neighborhood, who shall, after taking an oath, to be administered by said justice, faithfully and impartially, upon view, to assess the damages, if any, resulting to the lands or materials, taking into consideration the advantages, as well as disadvantages, the road may be to the owner, or owners, of such land or materials; and shall report thereon whether the owner thereof is entitled to damages or not, and if any, to what amount: and shall file such report, in writing, with said justice; whereupon, said justice shall render judgment thereon unless for good cause shown to the contrary; and in case either party should show sufficient cause why judgment should not be [entered,] the justice may grant a review of said premises, either with or without costs: *Provided*, That either party may appeal at any stage of the proceedings to the circuit court of the proper county, as in other cases; and such court shall appoint reviewers, as above directed, who shall report at that or the succeeding term, in the discretion of the court; and the judgment of said court shall be final thereon, and shall vest in said company the right of way through or over said land, and the right to take and apply the timber, stone, gravel, or other materials for the construction of the same, and in case judgment shall be rendered in favor of such owner for damages, the same shall become a lien upon the property and stock of said company from the date of its rendition.

SEC. 20. If it should be found necessary and advantageous to

the location and construction of said road, said company shall have the right to lay the same along and upon any state or county road: *Provided, however,* That said company shall leave a sufficiency of such state or county road in as good repair for common use as previous to such occupation by said company.

SEC. 21. When said company shall have procured the right of way as hereinbefore provided, they shall be seized in fee simple of the right to said land, and shall have the sole use and occupation of the same, and no person, body corporate or politic shall, in any way, interfere therewith, or molest, disturb, or injure any of the rights and privileges hereby granted, so as to detract from or affect the profits of said corporation.

SEC. 22. The company shall commence the construction of said road within five years after books shall have been opened for the subscription of stock, and shall complete the same within twenty years from its commencement: *Provided,* That if the same should not be completed within the time aforesaid, the legislature may give further time for its completion: *Provided, also,* If any part of said road shall be completed within the time aforesaid, in that case all the rights, privileges, and benefits granted in this act, shall be extended to and vested in said company to such part of said road as may be completed.

SEC. 23. Said company may construct said road, with all the necessary turns, gates, bridges, aqueducts, culverts, toll, and warehouses, that may be necessary for the interests of the company and convenience of the public, and may charge tolls or freight on such part of said road as may be suitable for use, although the whole be not finished.

SEC. 24. It shall be the duty of the board of directors to make semi-annual dividends of the profits amongst the several stockholders on the amount of stock subscribed and actually paid in; but the same shall not be paid over to said stockholders, but shall be entered on the proper books of said company to the credit of said stockholders, and shall be considered as a payment on said stock, until the amount subscribed (if needed for the construction of said work) is fully paid; and all the profits of said road shall be applied to the payment of the debts of said company, (except what may be necessary to pay the ordinary expenses of said company and to keep said road in repair,) until all the debts are fully paid; after which, dividends shall be made upon the amount of stock paid in; and, after deducting the necessary expense, the balance shall be paid over to the respective stockholders, in proportion to their respective shares of stock, by them paid in.

SEC. 25. Said stock shall be divided into shares of twenty-five dollars each; and in case more shares should be subscribed than is necessary for the completion of the road, the board of directors shall have power to decrease the number of shares and amount of stock by taking from their books such amount from the stock of those who hold the largest amount, so as to place the stockholders

as near upon an equality as possible in point of interest in said company; and in case such surplus stock has been paid in by the stockholders, the amount so deducted shall be refunded to him or them by said company.

SEC. 26. Said board of directors shall have a public office on or near the route of said road, and shall keep a fair journal of all their proceedings, and a just and full account of the capital stock and property of every description, and of all moneys received from every source whatever, and of all moneys disbursed, which shall be entered in full on said books, which shall be open to the inspection of the stockholders, and to any agent, attorney, or committee which the legislature may appoint, at any time, to examine the books of said company.

SEC. 27. It shall be lawful for said company to acquire, hold and convey real estate for the following purposes: First. Such as may be taken in subscription of stock. Second. Such as may be necessary for the accommodation and transaction of the business of said company. Third. Such as may be mortgaged in good faith by way of security for money due the company. Fourth. Such as shall be conveyed to said company in satisfaction of debts contracted in the course of the necessary dealings of the company. Fifth. Such as may be purchased at sales, under judgments or decrees rendered in its favor.

SEC. 28. All conveyances, leases, and transfers of real estate to and from said company shall be in the corporate name of said company. And all conveyances, leases, and titles from said company shall be sealed with the seal of said company, signed by the president, and countersigned by the secretary thereof.

SEC. 29. Lists of the rates of tolls and freights for the transportation of merchandize, lumber, stock and passengers, when established by the directors, shall be made out by the secretary, and posted up in the office of the board of directors, and each of the depots and principal business places, cars, and warehouses of said company; and no higher shall be charged or taken by said company, or any officer thereof, unless the same shall have been allowed by the board of directors, and posted up as aforesaid.

SEC. 30. Every person subscribing stock in said company like real estate, shall state, in writing, the place of his residence, the description and quantity of the land by him subscribed, the county in which the land is situated, together with an abstract of his title, and shall, also, accompany the same with certificates of the clerk and recorder of the county in which said land lies, that there is no judgment, mortgage, or lien of record, or otherwise, in either of their offices, by which said land is in anywise encumbered; for which certificates, the clerk and recorder shall be allowed ten cents each, to be paid by such subscriber of stock, and he shall also make and file his affidavit with said board, that he is the owner in fee simple of said land, and that the same is free and clear from judgments, liens, or any incumbrances of any kind whatever, to the best

of his knowledge and belief; and no real estate shall be taken as such stock which does not lie in this state.

SEC. 31. The board of directors, at any time after the subscription of real estate as stock, may give notice to those who have made such subscription of stock, to deposit their title papers for such land in the recorder's office of such county as said board shall designate, and upon doing so shall take from such recorder duplicate receipts therefor, one of which he shall, within thirty days after receiving said notice, file and deposit with said board of directors, and the other to be retained by such subscriber.

SEC. 32. Said board shall cause an accurate list of all lands which may be so subscribed, to be made out and recorded in a book of said company, to be kept for that purpose, and shall thereupon give notice to the boards of commissioners of the counties of Madison, Delaware, and Randolph, in this state, that said lands are ready for appraisal, whereupon it shall be, and hereby is made the duty of the board of commissioners of each of said counties, at their next regular or called meeting for that purpose, to appoint one good reputable freeholder of their county as an appraiser, and to make out and deliver to him a written certificate of such appointment; which three persons thus appointed shall constitute the board of appraisers of said lands; said appraiser before entering upon the discharge of his duties shall take an oath before some officer competent to administer the same, faithfully, impartially, and to the best of his ability, to discharge his duty as appraiser of said lands, which said oath shall be endorsed on the back of the certificate of appointment by the officer administering the same and subscribed by such appraiser, and by him deposited with the directors of said company.

SEC. 33. As soon as the aforesaid certificate of appointment and qualification of said appraisers are filed with said board of directors, they shall cause a list of said lands, together with the abstracts of title furnished by said subscribers, to be made out and delivered to said appraisers.

SEC. 34. Said appraisers shall record in a book to be furnished them for that purpose by said board, the authority by which they act, and the oath endorsed on the same, and shall proceed forthwith to examine the title of said subscribers to the lands as subscribed, and if satisfied with the validity and correctness of the same, shall, upon view, appraise said lands at their fair cash value at the time of such valuation, and shall enter in the book aforesaid the description and quantity thereof, the amount per acre at which it is appraised, the name of the owner, and the place of his residence; and when the whole is completed the same shall be signed by said appraisers, or any two of them, and by them deposited with the board of directors to be by them safely kept.

SEC. 35. As soon as said appraisal is completed and filed with said board of directors as aforesaid, the secretary of the board

shall give written notice to each of said subscribers of the value at which his or her lands thus subscribed has been appraised.

SEC. 36. Each of said subscribers shall within twenty days after receiving such notice, severally convey all his or her interest, title, and claim in and to said land by good and sufficient deed or deeds to the president and directors of said company, for the use of said company, to be disposed of in the manner and for the purposes specified in this act.

SEC. 37. If any such subscriber or subscribers shall fail or refuse to convey as aforesaid, or otherwise secure the stock to the amount of said appraised value, he or they shall be bound to pay all the costs and expenses of appraising said land, and when the amount is truly made out and presented to him by the treasurer of said company, or any other authorized agent thereof, if he or they shall fail or refuse to pay the same on demand, the same may be recovered by said company in an action of debt or assumpsit, together with ten per centum damages thereon, and costs.

SEC. 38. As soon as any subscriber shall have executed a conveyance as above provided, the title papers deposited with the recorder as above required shall be delivered over to the board of directors; and if any subscriber shall fail to convey as hereinbefore required, the fact shall be certified by the secretary of the board to the proper recorder; as soon as such subscriber or subscribers have paid the costs and expenses required to be paid by him in the preceding section, and the said recorder shall then return to such subscriber or subscribers the title papers aforesaid, upon payment to such recorder by such subscriber or subscribers of ten cents on each tract of land subscribed as aforesaid; and it is hereby made the duty of the recorders selected by said board to receive and preserve said title papers to be disposed of as herein required.

SEC. 39. As soon as the board shall have received proper conveyances of the lands subscribed, they shall cause a correct list of the same to be made out and recorded in a book to be kept for that purpose, which shall be open for the inspection of any who may be interested therein, or who may desire to purchase said lands, or any part thereof.

SEC. 40. As soon as the requisite conveyances shall be perfected of the real estate stock of said company, the board of directors shall issue certificates of stock to the subscribers thereof, to the amount of the appraised value of said real estate.

SEC. 41. The land thus subscribed and conveyed shall be subject to taxation as the property of said company, as other lands, but the stock based thereon shall not be subject to taxation until the lands are conveyed away by said company; and until it is thus conveyed the person owning said stock shall pay on demand to said company the amount of tax assessed on such land against said company, and, on failure to pay the same, it may be collected as other dues are collected by said company, by action of debt or assumpsit, together with ten per centum damages thereon and costs.

SEC. 42. The stock of said company, other than as before provided, subscribed and actually paid in, shall be subject to taxation as other property, and shall be assessed and collected in the several counties through which said road is located in proportion to the distance said road may run through said counties.

SEC. 43. All the stock of said company shall be considered personal property, and may be sold on execution issued against any member or stockholder to the amount of his stock, as other personal property, and transferred on the books of the company by the officer selling the same, in the same manner that the same could be done by the owner thereof; and when such transfer shall have been legally made, if the execution defendant shall refuse to transfer and deliver the certificate of stock to such purchaser, it shall be lawful for the board of directors to make and deliver to such purchaser a new certificate thereof, stating therein the sale and transfer by such officer as aforesaid.

SEC. 44. When any real estate shall have been subscribed as stock, and conveyed as provided in this act, the board of directors may issue from time to time on such real estate in payment for labor, materials, or any other matter or thing for the use or benefit of said company, an amount of loans of denominations not less than twenty dollars, equal in all to the appraised value of such real estate, so conveyed as aforesaid, specified in such bonds the amount for which it is issued, and that the same is receivable in the entry and payment of lands held as stock by said company according to the provisions of this act. Nothing, however, herein contained shall be so construed as to confer upon said company any banking privileges.

SEC. 45. Said bonds shall be signed by the president of the board, and attested by the secretary, and before paid out or put into circulation by said company, shall be properly registered in a book to be provided for that purpose, setting out the date, amount, and number thereof, and to whom payable; and whenever an amount shall have been issued equal to the appraised value of the land subscribed as aforesaid, no other or greater amount shall be issued by said company for any purpose whatever; and all bonds so issued shall constitute a lien in the hands of the holders thereof upon every part and parcel of such real estate subscribed and conveyed as aforesaid, except such parts and parcels thereof as may have been, or thereafter shall be entered and paid for according to the provisions of this act; and such lien shall have preference over all debts, judgments, mortgages, and other liens, of whatever character, against said company.

SEC. 46. If any officer or member of said company shall issue or put in circulation any of said bonds, except authorized by this act, he shall be deemed guilty of forgery, and upon conviction thereof shall be imprisoned at hard labor in the state prison for not more than seven nor less than one year.

SEC. 47. The board of directors shall hold the several tracts or

parcels of land subscribed as stock subject to entry by the person or persons who subscribed the same, or their heirs or assigns for the term of four years after the issue of the first bonds, and shall receive in payment for the same any bonds issued as aforesaid; and in case the same or any part thereof should not be paid for in said bonds, the money received shall be set apart for the redemption of said bonds, and for no other purpose whatever.

SEC. 48. At the expiration of four years after the issuing of the first bonds as aforesaid, in case all the land subscribed as stock shall not have been entered by the persons by whom the same was subscribed, said board may order the same to be sold at public sale, (if they should deem it the interest of said company so to do,) by giving at least twenty days' notice of the time and place of such sale by advertisement in some public newspaper printed nearest where said land is to be sold: *Provided, however,* That no such land shall be sold for a less price than its appraised value as stock in said company.

SEC. 49. If said board of directors should not deem it expedient to have said land sold or offered for sale as above provided for, within three months after the expiration of said four years, or in case any should remain unsold after said sale, the same may be entered and paid for in said bonds by any person applying at the office of said board, and paying to the treasurer of said board, an amount of said bonds equal to the appraised value of said land; and upon presenting the treasurer's receipt for the amount, it shall be the duty of the president and secretary, to execute and deliver to such purchaser, a good and sufficient deed for such tract or tracts of land, so entered as aforesaid, which said deed shall vest in such grantee or purchaser his heirs and assigns forever, the fee simple of such land.

SEC. 50. The secretary and treasurer of said board shall discharge the duties and make the same entries in the books of said company prepared for that purpose, that are required to be made by the registers and receivers of the United States land offices, the secretary performing those of register, and the treasurer those of receiver.

SEC. 51. In case the bonds issued by said company shall not all be redeemed by the entry and sale of said lands, the money received for the lands shall be set apart for the redemption of the residue thereof, and shall not be applied to any other purpose until the whole is redeemed, or until the board shall have given at least sixty days notice to the holders of such bonds to present the same for redemption, which notice shall be published at least twice in some weekly newspaper published nearest to the office of said board.

SEC. 52. As such bonds are received by said board in payment of lands or otherwise, they shall cause a record of numbers, dates, and amount thereof, to be made in a book to be kept for that purpose, and the same shall be safely kept, until the next regular meeting of said board after it has been received, when the same shall be cancelled and burned, or otherwise destroyed by said board.

SEC. 53. Said president, treasurer, and secretary, and such other officers as may be required by the by-laws to do so, shall each take an oath to faithfully, diligently, and honestly discharge their respective duties, a copy of which oath properly certified by the officer administering the same, shall be filed in the office of said board previous to said officers entering upon the discharge of [their] duties.

SEC. 54. It shall not be necessary for the whole amount of the capital stock to be subscribed, before the directors of said company may proceed to let or put under contract the whole or any part of said work; but they shall at no time put under contract an amount of work exceeding in cost, the amount of stock subscribed, according to the estimate of the engineers, employed in locating and estimating said work.

SEC. 55. It shall be lawful for said directors to appoint one or more agents to open books for the subscription of stock in any one or more states as they may deem proper, which said stock shall be held and applied by said company, as other stocks and subject to all the provisions of this act.

SEC. 56. All the stock which now is, or hereafter may be subscribed to the Pendleton and Indianapolis railroad company whenever said company shall have organized according to the provisions of an act entitled "an act to provide for the continuation of the Madison and Indianapolis rail road to Pendleton, Huntsville and Andersontown, approved January 5th A. D. 1846," may be by said company, or the directors thereof, transferred to the company hereby incorporated, and upon the directors of said Pendleton and Indianapolis railroad company making an order upon their books, thereby transferring said stock to this company and delivering said stock books, and other evidences of stock subscriptions, to the president and directors of the company hereby incorporated, all such stock shall then and thereby become a part of the stock of this company; and all the stockholders in said Pendleton and Indianapolis railroad company, shall forever thereafter be considered stockholders in this company and shall have all the rights and privileges by this act conferred upon other stockholders, and be subject to all the liabilities and penalties thereof; and the president and directors of this company, shall, upon the delivery of the stock books and other books of said Pendleton and Indianapolis railroad company, cause the stock thereof to be properly transferred to the books of this company hereby incorporated, and from that time henceforward, the corporate rights and privileges of said Pendleton and Indianapolis railroad company shall cease to exist, and shall become merged in this company.

SEC. 57. In case said Pendleton and Indianapolis railroad company shall fail or refuse to transfer said stock to this company, as above provided, then and in that case this company shall commence the road hereby authorized to be constructed at Andersontown or any other point they may select.

SEC. 58. It shall be lawful for any county in this state to take and subscribe stock in this company, and for that purpose the several boards doing county business are hereby authorized to subscribe the same, and to levy a tax for county purposes not exceeding one dollar on every hundred dollars valuation of property assessed, to be applied to such object, and the county thus subscribing shall hold such stock as individual stock is held in said company.

SEC. 59. At any time after the expiration of sixty years the State reserves the right to purchase said road by paying said company the entire cost of constructing said road and keeping the same in repair, with six per centum interest thereon.

SEC. 60. This act may at any time be altered or amended at the request of said company upon the application of the president and directors thereof.

SEC. 61. This act shall be in force from and after its passage, and taken and deemed a public act, and shall be liberally construed.

CHAPTER XCV.

An Act to repeal an act therein named.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled "An act fixing a certain annual compensation to the auditor of Madison county," approved January 27, 1847, be and the same is hereby repealed.

SEC. 2. The General Laws of the State of Indiana, repealed by the aforesaid act, be and the same are hereby revived as to the said county of Madison.

SEC. 3. This act to take effect and be in force from and after its passage.

CHAPTER XCVI.

An Act to change the name of Ebenezer Barker Twitchel.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the name of Ebenezer Barker Twitchel, a resident of Elkhart county, be and is hereby changed, and the said Ebenezer Barker shall be hereafter known by the name of Ebenezer Barker Sloan: *Provided*, That nothing in this act shall be so construed as to impair or in any way effect the right of any person or persons whatever.

SEC. 2. This act to take effect and be in force from and after its publication in the Indiana State Sentinel.

CHAPTER XCVII.

An Act for the relief of Mary M. Goodrich.

[APPROVED FEBRUARY 11, 1848.]

WHEREAS, Heretofore to wit: on the 15th day of February, 1844, Mary M. Goodrich was, by the regular authorities of the county of Randolph, declared insane and incapable of taking care of her effects, personal and real. AND WHEREAS, At the time and place aforesaid Asahel Stone, Thomas Best, and Nathan Reed, were duly appointed her guardians and have had charge of her effects both personal and real ever since; AND WHEREAS, In the year 1845, the said Mary M. Goodrich was removed to her friends and relations in the State of Missouri, where she now resides. AND WHEREAS, The said guardians have received satisfactory evidence that the said Mary M. Goodrich is now restored to her right mind; AND WHEREAS, In order to avoid the unnecessary expense and trouble attending the usual way of proving her sanity by compelling her to commence her suit in the county of Randolph, is the object of this act. Therefore, in order to give her, the said Mary M. Goodrich relief, and enable her to discharge her guardians,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for the probate court of Randolph county, Indiana, to settle up with and discharge the guardians of said Mary M. Goodrich, and return to her her property and effects

whenever the said probate court receives from the proper authority or authorities, from the State of Missouri, evidence that she has proven (in accordance with the laws of that state) to the satisfaction of the court trying the same, that she is now restored to her right mind, and capable of managing her own affairs.

SEC. 2. This act to take effect and be in force from and after its passage.

CHAPTER XCVIII.

An Act to authorize the Auditor and School Commissioner of Miami County to make a deed to Jacob Brower.

[APPROVED FEBRUARY 12, 1848.]

WHEREAS, Jacob Brower heretofore purchased of the school commissioner of Miami county, lot number nine, (9) being the north-east quarter of the south-east quarter of section number sixteen, (16) in township number twenty-seven (27) north, of range number four east, containing forty acres of land in said county, and received from the school commissioner of said county a deed which was intended to convey said land, but which contains an erroneous description of the same; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the auditor and school commissioner of said county be and they are hereby authorized to make and execute to the said Jacob Brower, a good and sufficient deed in fee simple for said tract of land, which said deed shall have the same force and effect as other deeds required by law to be made by auditors and school commissioners for school lands.

SEC. 2. This act to take effect and be in force from and after its passage.

CHAPTER XCIX.

An Act to vacate certain streets and alleys therein named.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all the streets and alleys not now open, and which have never been opened, upon any part of twenty-six acres off of the east side of the west half of the south-west quarter of section number thirty-six in township sixteen north, of range three east, in Marion county, Indiana, be and the same are hereby vacated.

SEC. 2. This act to take effect and be in force from and after its passage.

CHAPTER C.

An Act for the relief of Simon and John Bottorff.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the treasurer of state shall pay or cause to be paid to Simon and John Bottorff, of the county of Clark, the sum of forty-one dollars and five cents, out of any money that shall belong to the State of Indiana, for bacon furnished Captain Fitzgibbon, captain of one of the volunteer companies of Indiana volunteers, for the support of said company, of which said Captain Fitzgibbon had command.

SEC. 2. This act to be in force from and after its passage.

CHAPTER CI.

An Act to postpone the time for returning lands and town lots delinquent, for the non-payment of taxes, in the county of Grant.

[APPROVED JANUARY 18, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the time now fixed by law for returning lands and town lots in the county of Grant, for the non-payment [of] taxes be, and the same is hereby extended until the second Monday in March next. And it is hereby made the duty of the treasurer of said county to pay into the office of the treasurer of state all moneys belonging to the same, which has been by him collected.

SEC. 2. The secretary of state is hereby authorized and directed to cause a certified copy of this act to be filed in both the treasurer's and auditor's office of the county of Grant.

SEC. 3. This act to take effect and be in force from and after its passage.

CHAPTER CII.

An Act to amend an act entitled "an act to repeal an act more effectually to enable supervisors to open and keep in repair public highways." Approved January 27, 1847.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That an act entitled "an act to repeal an act more effectually to enable supervisors to open and keep in repair public highways," shall not be so construed as to permit the county board of the county of Jefferson to levy a tax for road purposes in the city of Madison, in said county.

SEC. 2. That this act be in force from and after its passage.

CHAPTER CIII

An Act in relation to the tax duplicate of the county of Jefferson, for the year 1847.

[APPROVED FEBRUARY 11, 1848.]

WHEREAS, The county auditor of Jefferson county was taken suddenly and violently ill about the first of August, 1847, which illness was protracted several weeks, so that it was impossible for him to complete the tax duplicate and copy thereof of said county of Jefferson, for the year 1847, within the time prescribed by law: AND, WHEREAS, The deputy he appointed could not attend to the ordinary business of the said auditor's office and complete said duplicate, and copy within the time aforesaid; but did place said tax duplicate in the hands of the county treasurer in time for his collections, as he, the said treasurer, is directed by law. Therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the completion of the tax duplicate of Jefferson county, for the year 1847, after the time prescribed by law be, and the same is hereby legalized.

SEC. 2. This act to take effect and be in force from and after its passage.

CHAPTER CIV.

An Act to incorporate the Princeton Female Academy.

[APPROVED FEBRUARY 16, 1848.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Samuel Hall, Alexander Devin, and James Boswell, of the county of Gibson and State of Indiana, and their successors in office be, and they are hereby, constituted a body politic and corporate, and shall be known by the name and style of the "trustees of the Princeton Female Academy;" and by such corporate name may sue and be sued, plead and be impleaded, in any court in this state, and by that name have perpetual succession, and be capable of purchasing, holding, selling and conveying any property, either real, personal or mixed, for the use of said academy, not to exceed in value ten thousand dollars.

SEC. 2. It shall be lawful for said trustees to hold meetings at such places and at such times as they may deem necessary; to sit

on their own adjournments, or the call of the proper officer, or a majority of such trustees; and to appoint their own officers, and to fill vacancies in their own body, and to establish such rules and by-laws as a majority of said trustees may deem expedient.

SEC. 3. It shall be the duty of said trustees, appointed by this act, to hold an election for three trustees, as their successors in office, on the third Saturday in September, 1848, at the court house, in Princeton; at which the regularly qualified voters of said town of Princeton shall be entitled to vote for said trustees; and the person having the highest number of votes shall serve as such trustee for three years, and the person having the next highest number of votes shall serve for two years, and the person having the next highest number of votes to the second shall serve for one year; and one trustee shall annually be elected thereafter, on the third Monday in September; and the trustees so last elected, shall hold their office for three years, and until their successors are elected and qualified; and in case of the death, resignation, and removal of any trustee, the remaining trustee or trustees shall appoint some person to fill such vacancy until a successor shall be duly elected and qualified.

SEC. 4. That all deeds or other instruments of writing, grants, conveyances or leases, heretofore executed by any person or persons, bodies politic or corporate, to any person or persons named in such deed or instrument in writing, as trustees of the Princeton Female Academy, shall be as good and effectual in law to all intents and purposes, as if the trustees of said Female Academy had been an incorporated body at the time such deed or instrument in writing was executed, and the persons named therein had been regularly appointed trustees thereof.

SEC. 5. That all the actings and doings of Samuel Hall, Robert Stockwell and William Daniel, as trustees of said academy, since the first day of November, 1839, shall be as good and effectual in law, as if said academy had been incorporated, and they had been duly appointed trustees thereof.

SEC. 6. That the trustees named in the first section of this act and their successors in office, shall have, hold, possess, and enjoy all the property transferred, conveyed, granted, or leased to any of their predecessors in office, in the same manner, and for the same uses, as if they and their predecessors in office had been a regularly constituted corporate body at the time such acts took place.

SEC. 7. This act to take effect and be in force from and after its passage.

CHAPTER CV.

An Act to incorporate the Centreville and Abbing-ton Turnpike Company.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Jacob Fender, Frederick Black, Joel Epperly, Oliver T. Jones, Nathan Hollingsworth, Norris Jones, James Forkner, Alexander C. Dill, and Dillon Haworth, of the county of Wayne, in the State of Indiana, and their successors in office, duly elected as hereafter directed, are hereby constituted a body politic and corporate, and by the name and style of "The Centreville and Abbing-ton Turnpike Company," shall be able and capable in law and equity to sue and be sued, plead and be impleaded, defend and be defended against, in all, and any courts of competent jurisdiction; to make and use such common seal as they may desire, and the same to change at their pleasure; and shall be able and capable in law to make contracts and enforce the same, and to make and enforce the necessary by-laws and regulations to enable them to carry into execution and effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of the state.

SEC. 2. The capital stock of said company shall be twenty thousand dollars, divided into shares of twenty-five dollars each, and shall be applied to the making of a McAdamized road from Centreville to Abbing-ton, in Wayne county, Indiana.

SEC. 3. The persons in the first section of this act named shall be directors of said company until others are elected and qualified, as is hereinafter directed; and said first named directors, or a majority of them, shall meet at the court-house in said town of Centreville, on the first Monday of April next, or at any other time or place that they may agree upon; and at such meeting shall organize said company by electing one of their body president, and another clerk, and another treasurer; and after such organization any five of said board shall be a quorum to do business.

SEC. 4. The incorporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, and all other officers and servants necessary and proper to carry into effect this act; they shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations and all orders for the payment of such sums of money as may be allowed to their officers and all others in their employ, which journal shall from time to time be signed by the president. They may sit on their own adjournment or on the call of the president. When the president is absent they may call a president, pro tempore; they shall fill all vacancies that may happen in their body, and may require their officers to enter into bond with security for the faithful discharge of their duties.

SEC. 5. The incorporation may cause books to be opened for the subscription of stock at such times and places as they may think proper, having first given three weeks' notice thereof in some weekly newspaper printed in Wayne county. The said company may receive subscriptions of stock therein in money, real estate, labor, or in any other way that to them may seem proper.

SEC. 6. Whenever real or personal property shall be subscribed in stock in said company, the same shall be conveyed or delivered to the company, and may be by them sold at any time, such sale being for not less than the price at which the same was taken by the company.

SEC. 7. As soon as three hundred shares are subscribed for and ten per centum thereon paid, it shall be the duty of the board of directors to give three weeks' notice thereof in some weekly newspaper, printed in said county of Wayne, appointing a time and place for the stockholders to meet and elect nine directors, who shall be stockholders and citizens of this state, which election shall be by ballot, and conducted under the supervision of one inspector and two judges, appointed by the stockholders present, and the persons having the highest number of votes shall be declared duly elected; and in all elections each share shall entitle the holder to one vote, such vote to be given by the person holding the same, or by the husband, father, mother, guardian, trustee, executor, administrator, proxy, or agent of any such shareholders, or by the agent or proxy of any corporation.

SEC. 8. The directors elected as above, and those elected at all subsequent elections, shall elect one of their number president; and the president and directors thus elected shall continue in office until their successors are elected and qualified; and elections for directors shall be thereafter annually held on the first Monday in November, or in case of failure, then to elect at such subsequent time as the board of directors shall appoint.

SEC. 9. The said corporation may make a loan of money pledging the effects thereof for a payment of the same.

SEC. 10. Certificates of stock signed by the president, and countersigned by the clerk, shall be given to the stockholders as evidence of the stock held. The stock may be transferred in the books of the company only; and said company shall have a lien on said stock for any dues of any kind going to said company from any such stockholders.

SEC. 11. The stock shall be paid in such instalments and at such times as said company shall direct, of which due notice shall be given to said stockholders by publication for three successive weeks in some weekly newspaper published in Wayne county. The books of subscription shall contain the following, to which each stockholder shall sign his name: "We, the undersigned, promise to pay twenty-five dollars for each share of stock set opposite our names to the Centreville and Abbing-ton Turnpike Company, at such times and in such instalments as said company may direct. In witness

whereof we hereunto set our hands and seals this day of 184 ;" and should any stockholder refuse or neglect to pay any such instalment when due, said company may sue therefor and recover judgment for the same, with ten per centum damage thereon; and if such delinquent stockholder shall prove insolvent, said company may declare said stock and all he may have paid thereon forfeited to the company; and no delinquent stockholder shall have any right to vote at any election, or receive any dividend on his stock.

SEC. 12. For the purpose of locating and constructing a turnpike road from Centreville to Abbingdon aforesaid, it shall be lawful for said company to enter upon any lands, to make surveys and estimates, and to locate, lay out, and construct said road upon such ground as they think proper, and to take from and off the lands lying along and adjacent to said road all such timber, stone, gravel, and other materials as may be necessary, in all cases paying to the owner of such materials a fair compensation therefor.

SEC. 13. For the purpose of determining the value of any materials taken under the provisions of this act, or the damage sustained by any person on whose land said road may be located, either said Company, or such person claiming damage or pay for materials as aforesaid, may select one disinterested freeholder of the county and give notice to the opposite party to select another freeholder as aforesaid, to act as arbitrators in the settlement of the damage sustained, or the value of materials taken, which notice, specifying the time and place of meeting, shall be served on the opposite party at least three days before such meeting; and said two freeholders shall choose a third man of similar qualifications, and such arbitrators shall have power to issue all the necessary process to bring before them witnesses, papers, &c., to the same extent, and in like manner that justices of the peace have; and the decision of such arbitrators in the premises shall be final and conclusive, unless appealed from to the circuit court, which appeal is hereby authorized according to the same rules that prevail in cases taken from a justices judgment.

SEC. 14. Said company shall commence said road in two years from the date of the approval of this act, and finish it in within seven years from the same date.

SEC. 15. If said company shall suffer said road to continue out of repair for an unreasonable time, they shall, during such time, have no right to collect any tolls thereon; and if after the completion of said road, it shall be suffered to get out of repair and remain impassable for one year, unless when the same is repairing, the charter hereby created shall be forfeited.

SEC. 16. It shall be lawful for said company, after the completion of said road, to put up thereon one toll-gate or more, and to charge as toll not exceeding the following rates for seven miles, and in proportion for any shorter distance, viz: for every four-wheel carriage, wagon, or other vehicle drawn by one horse, eighteen cents; for

every horse or other animal in addition, six cents; for every cart, chaise, or two-wheel carriage drawn by one horse, twelve cents; for every horse or other animal in addition, six cents; for every sled or sleigh drawn by one horse, ten cents; for each coach, chariot, or other four-wheeled pleasure carriage drawn by one horse, eighteen cents; for every horse and rider, six cents; for every horse, mule, or ass, three cents; for every head of neat cattle, two cents; and for each hog or sheep, one cent: *Provided*, That all persons going to or returning from church, and all funeral processions, shall pass free of toll.

SEC. 17. If said company shall at any time contract debts to an amount greater than the stock subscribed, the directors making such contract shall be individually liable for such excess.

SEC. 18. This act shall be in force from and after its passage.

CHAPTER CVI.

An act to incorporate the Madison, Lexington, and Brownstown Turnpike Company.

APPROVED FEBRUARY 16, 1848.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That William Griffin, Jesse Whitehead, Williamson Dunn, and Samuel Bane, of the county of Jefferson; George A. Bicknal, John Stansbury, Jonathan H. Hardy, E. Lamar, Angus Fouts, Abraham Noaks, Michael Swope, and John Finly, of the county of Scott; Hezekiah Thomas and David Mitchel of the county of Washington; George Burge, William Edwards, and William Brown, of the county of Jackson, and their successors in office, duly elected as hereinafter directed, are hereby constituted and appointed a body politic and corporate, and by the name and style of the "Madison, Lexington, and Brownstown Turpike Company," shall be able and capable in law and equity to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto in any and all courts of justice whatever, to make and use a common seal, and the same to alter, change, or renew at pleasure, and shall be able and capable in law to make contracts and enforce the same, and to make and enforce the necessary by-laws, rules, and regulations, to enable them to carry into effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of this state.

SEC. 2. [The] capital stock of said corporation shall be one hundred thousand dollars, divided into shares of twenty dollars each, with power to increase the capital stock, if necessary to accomplish the objects herein contemplated.